

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

NO. 2:18-cv-01115-RSL

DECLARATION OF KRISTIN
BENESKI IN SUPPORT OF
PLAINTIFF STATES' MOTION
TO COMPEL DISCOVERY
RESPONSES

I, Kristin Beneski, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.

2. I am an Assistant Attorney General with the Washington State Attorney General's Office and counsel of record for the State of Washington in this matter.

3. Attached hereto as **Exhibit 1** is a true and correct copy of *Plaintiffs' First Set of Interrogatories and Requests for Production to the Private Defendants* (the Requests), issued on September 20, 2018.

1 4. Attached hereto as **Exhibit 2** is a true and correct copy of *Private Defendants'*
 2 *Answers to Plaintiffs' First Set of Interrogatories and Responses to Requests for Production,*
 3 dated October 22, 2018.

4 5. Attached hereto as **Exhibit 3** is a true and correct copy of *Private Defendants'*
 5 *Supplemental Answers to Plaintiffs' First Set of Interrogatories and Responses to Requests for*
 6 *Production,* dated December 3, 2018.

7 6. **Exhibit 4** is a DVD that is being submitted to the Clerk's Office. *See* Dkt. #
 8 147. The DVD contains a copy of a video that was previously available at the following
 9 hyperlink: <https://www.youtube.com/watch?v=5BgIXIlkSoA&feature=youtu.be>. Our office
 10 became aware of the video and downloaded it from this link on August 24, 2018. Below is a
 11 true and correct screen shot taken from the video:



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 18 A voiceover accompanying the “HOST OR PAY” image above, starting at approximately
 19 minute 1:08 of the video, calls on others to “host the files or pay the tax for the men who will.”
 20 At approximately minute 2:09, Defense Distributed promises in return to “offer two new
 21 contracts to you.” At approximately minute 2:16, the video lists among “Our Partners” the
 22 “2nd Amendment Foundation.”

23 7. Attached hereto as **Exhibit 5** is a true and correct copy of an email exchange
 24 between Chad Flores and Jonathan Scott Goldman, from August 24 to August 27, 2018.

25 8. Attached hereto as **Exhibit 6** is a true and correct copy of a screen shot from
 26 Defense Distributed's Twitter page, taken on November 30, 2018.

1 9. Attached hereto as **Exhibit 7** is a true and correct copy of an August 28, 2018
2 *Ars Technica* article entitled “After court order, 3D-printed gun pioneer now sells pay-what-
3 you-want CAD files,” downloaded on November 30, 2018.

4 10. Attached hereto as **Exhibit 8** is a true and correct copy of an August 28, 2018
5 *Texas Tribune* article entitled “Blocked from giving away 3D-printed gun blueprints, Texas
6 man says he’s selling them instead,” downloaded on November 30, 2018.

7 11. Attached hereto as **Exhibit 9** is a true and correct copy of a letter from Jeffrey
8 Rupert to Charles Flores and Joel Ard dated November 2, 2018. Mr. Flores and Mr. Ard did
9 not respond substantively to this letter, but the parties agreed to postpone efforts to resolve any
10 discovery disputes until after the Court had ruled on the Private Defendants’ then-pending Rule
11 12(c) motion.

12 12. Attached hereto as **Exhibit 10** is a true and correct copy of an email exchange
13 between Charles Flores and me, from November 16 to November 29, 2018.

14 13. Ultimately, Jeffrey Rupert and I met and conferred with Charles Flores and Joel
15 Ard via telephone on Friday, November 30, 2018. Counsel for the Private Defendants indicated
16 that they intended to provide a substantive answer to Interrogatory No. 2, but would not
17 substantively respond to any of the States’ other Requests. Counsel stated and that they would
18 serve supplemental responses on Monday, December 3. I informed Mr. Flores and Mr. Ard
19 that on behalf of the States, our office intended to file a motion to compel responses to the
20 remaining disputed Requests by the December 4 deadline to file discovery-related motions.

21 14. Attached hereto as **Exhibit 11** is a true and correct copy of an email from
22 Matthew Goldstein transmitting a copy of the Private Defendants’ Supplemental Responses to
23 counsel for the States on December 3, 2018 at 5:10 PM Pacific Time. Because I was not copied
24 on the transmittal email, I did not receive the Supplemental Responses until nearly an hour
25 later.
26

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2018 I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will serve a copy of this document upon all counsel of record. In addition, an .mp4 video file of Exhibit 4 was emailed to all counsel of record, as well as filed in disk form with the Clerk of the Court.

DATED this 4th day of December, 2018.

/s/ Morgan Mills
MORGAN MILLS

EXHIBIT 1

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

NO. 2:18-cv-01115-RSL

PLAINTIFFS' FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION TO THE PRIVATE
DEFENDANTS

TO: DEFENSE DISTRIBUTED, SECOND AMENDMENT FOUNDATION, and
CONN WILLIAMSON, Defendants (collectively, the Private Defendants);

AND TO: CHARLES R. FLORES, MATTHEW GOLDSTEIN, and JOEL B. ARD,
Attorneys for the Private Defendants.

I. INSTRUCTIONS

Pursuant to Federal Rules of Civil Procedure 26, 33, and 34, Plaintiffs hereby request that the Private Defendants answer the following interrogatories and produce the following documents and electronically stored information within 30 days of service.

For each document that you assert is privileged or otherwise excludable from discovery, please provide the following information: the author(s), the recipient(s), all copy recipients, the

1 date, the type of document (memorandum, e-mail, letter, chart, photograph, etc.), a description
2 of the document, the privilege being claimed, and the grounds for the privilege claim.

3 If any request for production seeks information in any document formerly in your
4 possession, custody, or control that has been discarded, misplaced, lost, destroyed, or otherwise
5 placed outside your custody or control, identify the document and describe its contents in detail
6 and state when the document was discarded, misplaced, lost, destroyed, or otherwise placed
7 outside your custody or control. If the document was destroyed, identify each person with
8 knowledge of its destruction, the person requesting or performing the destruction, the reasons
9 for its destruction, and each document that refers or relates to either the existence or destruction
10 of the document. For each document that was discarded, misplaced, lost, or otherwise placed
11 outside your custody or control, explain all circumstances in relation to the loss of the document
12 and identify each person with knowledge regarding those circumstances.

13 If you object to producing documents in response to any request for production, state
14 your objection and all factual and legal bases for the objection.

15 Unless otherwise indicated, these discovery requests seek any and all responsive
16 information within the possession, custody, or control of the Private Defendants, and pertain to
17 the time period beginning on July 30, 2018 and continuing through the present.

18 These discovery requests are continuing in nature. If you discover additional or different
19 information that is responsive to these discovery requests, you are required to provide
20 supplemental responses in accordance with Federal Rules of Civil Procedure 26(e). If you do not
21 provide the required supplemental information, the Plaintiffs may move at the time of trial to
22 exclude from evidence any requested information and documents that were not timely furnished.
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II. DEFINITIONS

The following definitions apply to these discovery requests:

“Document” encompasses the broadest possible definition permitted under the Federal Rules of Civil Procedure and specifically includes all written or recorded material of any kind or character in your possession, custody, or control or within your knowledge, including (without limitation) statements, letters, correspondence, telegrams, memoranda, notes, records, reports, studies, interoffice communications, calendar and diary entries, microfilm, bulletins, circulars, pamphlets, messages, invoices, maps, charts, tabulations, summaries or abstracts, video or audio recordings, work sheets, surveys, graphs, statistics, tables, photographs, rules, regulations, opinions, orders, interpretations, guidelines, electronic mail, any data or information stored or saved on any computer hard disk, floppy disk, tape, or other medium, any computer print-outs, computer software or code, whether in machine or human readable form on any medium, and all other documentary material, including non-identical copies (whether different from the original because of any alterations, notes, comments, or other material contained thereon or attached thereto or otherwise and whether a draft or final version).

“Communication” means any transmission, disclosure or exchange of information or opinion, however made.

“Concerning or relating to” means referring to, evidencing, containing, discussing, mentioning, describing, reflecting, summarizing, constituting, identifying, memorializing, referring or pertaining to, studying, commenting or reporting on, or analyzing, in whole or in part.

1 **“Distribute”** means to send, transfer, deliver, disperse, share, or otherwise facilitate
 2 (whether directly or indirectly) another person’s or entity’s receipt of an object, information,
 3 data, or other identified item (or something substantially similar).

4 **“Identify,”** with respect to an individual person, means to state the person’s full name,
 5 physical address, mailing address, phone number, employer(s), and job title(s).

6 **“Identify,”** with respect to a corporation or other entity, means to state the entity’s full
 7 name, place of incorporation, principal place of business, physical address, and mailing address.

8 **“Person”** means any individual, corporation, partnership, association, or any other entity
 9 of any kind.

10 **“You” and “your”** mean any of the Private Defendants, i.e., Defense Distributed, the
 11 Second Amendment Foundation, and Conn Williamson; any person acting or purporting to act
 12 on behalf of any of them, including (without limitation) Cody Wilson and any of their present or
 13 former employees, agents, representatives, personnel, attorneys, accountants, consultants,
 14 experts, investigators, or other persons; any officer, director, shareholder, founder, or member
 15 of Defense Distributed or the Second Amendment Foundation, including (without limitation)
 16 Cody Wilson; and any person acting in concert or participation with any of them.

17 **“TRO”** means the temporary restraining order entered by the Court in this matter on
 18 July 31, 2018.

19 **“Preliminary Injunction”** means the preliminary injunction entered by the Court in this
 20 matter on August 27, 2018.

21 **“Subject Files”** means any of the 3D printing files that are the subject of the TRO and
 22 the Preliminary Injunction, namely the “Published Files,” “Ghost Gunner Files,” “CAD Files,”
 23 and “Other Files” referenced in the “Temporary Modification of Category I of the United States
 24

1 Munitions List” and the letter to Cody R. Wilson, Defense Distributed, and the Second
2 Amendment Foundation issued by the U.S. Department of State on July 27, 2018.

3 The singular shall include the plural and vice versa, and the conjunctive shall include the
4 disjunctive and vice versa. Wherever used, references to the masculine, feminine, or neuter
5 gender shall include the neuter, feminine, and masculine genders, as the context demands.

6 **III. INTERROGATORIES**

7 **INTERROGATORY NO. 1:** Identify all persons who are officers, directors, shareholders,
8 founders, members, employees, or agents of Defense Distributed, or who are otherwise affiliated
9 with or who have authority to act on behalf of Defense Distributed.

10 **ANSWER:**
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13 **INTERROGATORY NO. 2:** State whether you posted any Subject Files online, or otherwise
14 made them publicly available via the internet, on or after July 31, 2018. If you did, identify the
15 URL(s), the exact date and time of any such posting, and the individual(s) responsible for or
16 involved in any such posting, and describe in detail the actions of each such individual in
17 connection with each such posting.

18 **ANSWER:**
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21 **INTERROGATORY NO. 3:** State whether you assisted or facilitated any other person in
22 posting any Subject Files online, or otherwise making them publicly available via the internet,
23 on or after July 31, 2018. If you did, identify the URL(s), the exact date and time of any such
24

1 posting, and the individual(s) responsible for or involved in any such posting, and describe in
2 detail the actions of each such individual in connection with each such posting.

3 **ANSWER:**

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6 **INTERROGATORY NO. 4:** State the total number of persons to whom you sold or distributed
7 any Subject Files via mail or courier, email, secure download, or any other method, on or after
8 July 31, 2018, or as to whom you participated in or facilitated such sale or distribution of any
9 Subject Files.

10 **ANSWER:**

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13 **INTERROGATORY NO. 5:** Describe in detail any method(s) by which you have sold or
14 distributed any Subject Files to any person on or after July 31, 2018, and any method(s) by which
15 you have participated in or facilitated such sale or distribution of any Subject Files.

16 **ANSWER:**

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19 **INTERROGATORY NO. 6:** As to the persons referenced in Interrogatory No. 4 to whom
20 Subject Files were sold or distributed, describe in detail any and all steps you took, if any, to
21 determine the following: (1) whether such persons are U.S. citizens or lawful permanent
22 residents; (2) whether such persons are located within the United States (and if so, in which
23
24

1 states); and (3) whether such persons are eligible to possess a firearm in any relevant
2 jurisdiction(s).

3 **ANSWER:**

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6 **INTERROGATORY NO. 7:** List any and all crimes with which Defense Distributed,
7 Cody Wilson, or any person in active concert or participation with either of them has been
8 charged or convicted within the last ten years, and describe the outcome of each charge or
9 conviction.

10 **ANSWER:**

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13 **INTERROGATORY NO. 8:** For the period of July 31, 2018 to the present, list (by city and
14 country) all destinations outside the United States to which Cody Wilson has traveled or to which
15 he currently plans to travel, and as to each destination, provide the dates of Mr. Wilson's actual
16 or planned departure from and return to the United States.

17 **ANSWER:**

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20 **INTERROGATORY NO. 9:** Identify all persons or entities who participated in the planning,
21 funding, production, editing, or distribution of the video previously located at the following
22 hyperlink: <https://www.youtube.com/watch?v=5BqIXIlkSoA&feature=youtu.be>. For each
23
24

1 person or organization involved in the planning, funding, production, editing, or distribution of
 2 the video, state the exact nature of the person or entity's involvement.

3 **ANSWER:**

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 6 **IV. REQUESTS FOR PRODUCTION**

7 **REQUEST FOR PRODUCTION NO. 1:** Produce all documents and communications
 8 concerning or relating to any party or non-party's posting of any Subject Files online, or
 9 otherwise making any Subject Files publicly available via the internet, on or after July 31, 2018.

10 **RESPONSE:**

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 13 **REQUEST FOR PRODUCTION NO. 2:** Produce all documents and communications
 14 concerning or relating to any party or non-party's sale or distribution of any Subject Files to any
 15 persons via mail or courier, email, secure download, or any other method, on or after
 16 July 31, 2018.

17 **RESPONSE:**

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 20 **REQUEST FOR PRODUCTION NO. 3:** Produce all documents reflecting any information
 21 related to any of the persons described in Interrogatory No. 4 to whom Subject Files were sold
 22 or distributed, including but not limited to any such person's: (i) name; (ii) address; (iii) physical
 23 location; (iv) age; (v) U.S. citizen or permanent resident status; (iv) eligibility to possess a
 24

1 firearm in any relevant jurisdiction(s); (v) the state and/or local sales tax that you collected
2 related to any sale; and (vi) the amount of state and/or local sales tax that you remitted to each
3 jurisdiction related to any sale.

4 **RESPONSE:**

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7 **REQUEST FOR PRODUCTION NO. 4:** Produce all documents and communications
8 concerning or relating to the proposed, planned, or actual sale or distribution of Subject Files on
9 or after July 31, 2018, including but not limited to all versions of: (i) the video identified in
10 Interrogatory No. 9; (ii) any other videos posted on YouTube, other websites, or elsewhere, or
11 any videos that you produced or published on or after July 31, 2018; (iii) any statements
12 published on Twitter or any other social media platform; (iv) any statements published on
13 defcad.com or defdist.org or elsewhere on the internet; and (v) any other published statements
14 or content.

15 **RESPONSE:**

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18 **REQUEST FOR PRODUCTION NO. 5:** Produce all of your communications concerning or
19 relating to the distribution or sale of any Subject Files on or after July 31, 2018, including internal
20 communications, communications among the Private Defendants, communications with any
21 other defendants, and communications with any third parties.

22 **RESPONSE:**

23

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1 **REQUEST FOR PRODUCTION NO. 6:** To the extent not produced in response to any of the
2 Requests for Production above, for the period of July 30, 2018 to the present, produce all
3 documents concerning or relating to the proposed, planned, or actual posting, distribution, or
4 sale of any Subject Files.

5 **RESPONSE:**
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8 **REQUEST FOR PRODUCTION NO. 7:** Produce all documents concerning or relating to
9 any criminal charges or convictions as referenced in Interrogatory No. 7.

10 **RESPONSE:**
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12

13 DATED this 20th day of September, 2018.

14 ROBERT W. FERGUSON
15 Attorney General

16 /s/ Jeffrey Rupert

17 JEFFREY RUPERT, WSBA #45037
18 Division Chief

19 KRISTIN BENESKI, WSBA #45478
20 Assistant Attorney General

21 TODD BOWERS, WSBA #25274
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Attorneys for Plaintiff State of Washington

DECLARATION OF SERVICE

I hereby certify that on September 20, 2018, I served a copy of this document upon all counsel of record by United States Postal Service to the following:

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Seattle, WA 98134

11 *Counsel for Electronic Frontier Foundation*

12
13 DATED this 20th day of September, 2018, at Olympia, Washington.

14 
15 SARA CEARLEY
16 Legal Assistant
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EXHIBIT 2

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

NO. 2:18-cv-01115-RSL

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

**PRIVATE DEFENDANTS
ANSWERS TO PLAINTIFFS'
FIRST SET OF
INTERROGATORIES AND
RESPONSES TO REQUESTS
FOR PRODUCTION**

TO: Plaintiffs State of Washington, et al., by and through their attorneys of record, Jeffrey Rupert, Kristin Beneski, Todd Bowers, Jeff Sprung and Zachary P. Jones, Attorney General Office

Defendants Defense Distributed, Second Amendment Foundation, Inc., and Conn Williamson (the "Private Defendants") hereby serve their answers to Plaintiffs' First Set of Interrogatories and responses to Request for Production.

ANSWERS TO INTERROGATORIES

GENERAL OBJECTIONS

The Court should issue a Rule 12 judgment on the pleadings dismissing the Private Defendants from this action, Dkt. 114, in which case the Private Defendants would not be subject to interrogatories, requests for production, and other discovery devices that apply to a party. *See* Fed. R. Civ. P. 26. Hence, the Private Defendants submit that they should not be required to comply with any interrogatory unless and until the Court resolves their Rule 12 motion. *See* Dkt. 114.

The Private Defendants object to the Instructions and Definitions provided with the interrogatories to the extent they seek to impose burdens greater than those imposed by the Federal Rules of Civil Procedure.

The Private Defendants object to the Instructions provided with the interrogatories to the extent they impose interrogatories beyond those numerated in the requests.

The Private Defendants object to the Definitions provided with the interrogatories to the extent they impose definitions of terms outside commonly understood meanings.

The Private Defendants object to the requests to the extent they seek the content of privileged attorney-client communications and/or confidential work product. The Private Defendants will produce a privilege log if compelled to produce documents and remain in the case.

These general objections are applicable to, and included in, the Private Defendants' answers set forth below.

ANSWERS**I. Interrogatory Number 1.**

Interrogatory No. 1 provides as follows: “Identify all persons who are officers, directors, shareholders, founders, members, employees, or agents of Defense Distributed, or who are otherwise affiliated with or who have authority to act on behalf of Defense Distributed.”

A. The Private Defendants object to this interrogatory because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

B. The Private Defendants object to this interrogatory because it is not proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the interrogatory seeks information that is duplicative of what the administrative record identifies and, to the extent that it is not duplicative, disproportionately unimportant in comparison to what the administrative record identifies.

C. The Private Defendants object to this interrogatory because it is overly broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if the identity of *some* persons affiliated with Defense Distributed were relevant to a party’s claim or defense, the interrogatory demands identification of “all persons. . . affiliated with . . . or who have authority to act on behalf of Defense Distributed” without any limitations

1 regarding subject matter, place, or time.

2 D. Defendants Second Amendment Foundation, Inc., and Conn Williamson
3 object to this interrogatory because it is not proportional to the needs of the case
4 considering the parties' relative access to relevant information. The obligation to respond
5 to this interrogatory, if any, should be limited to Defense Distributed.
6

7 **II. Interrogatory Number 2.**

8 Interrogatory Number 2 provides as follows: "State whether you posted any Subject
9 Files online, or otherwise made them publicly available via the internet, on or after July
10 31, 2018. If you did, identify the URL(s), the exact date and time of any such posting, and
11 the individual(s) responsible for or involved in any such posting, and describe in detail the
12 actions of each such individual in connection with each such posting."
13

14 A. The Private Defendants object to this interrogatory because it is not "relevant
15 to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). This action does not involve
16 any claim against the Private Defendants; it involves only Administrative Procedure Act
17 claims against the Federal Government that depend solely upon an administrative record.
18 See 5 U.S.C. § 706. The Court's preliminary injunction does not address the Private
19 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
20

21 B. The Private Defendants object to this request because it made for an
22 improper purpose.
23

24 C. The Private Defendants object to this request because it is made to cause
25 annoyance, oppression, and to harass the Private Defendants.
26

III. Interrogatory Number 3.

Interrogatory Number 3 provides as follows: “State whether you assisted or facilitated any other person in posting any Subject Files online, or otherwise making them publicly available via the internet, on or after July 31, 2018. If you did, identify the URL(s), the exact date and time of any such posting, and the individual(s) responsible for or involved in any such posting, and describe in detail the actions of each such individual in connection with each such posting.”

A. The Private Defendants object to this interrogatory because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

B. The Private Defendants object to this request because it made for an improper purpose.

C. The Private Defendants object to this request because it is made to cause annoyance, oppression, and to harass the Private Defendants.

IV. Interrogatory Number 4.

Interrogatory Number 4 provides as follows: “State the total number of persons to whom you sold or distributed any Subject Files via mail or courier, email, secure download, or any other method, on or after July 31, 2018, or as to whom you participated in or facilitated such sale or distribution of any Subject Files.”

1 A. The Private Defendants object to this interrogatory because it is not “relevant
2 to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve
3 any claim against the Private Defendants; it involves only Administrative Procedure Act
4 claims against the Federal Government that depend solely upon an administrative record.
5 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
6 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

8 B. The Private Defendants object to this interrogatory because it is not
9 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so
10 because the request seeks information that is disproportionately unimportant in
11 comparison to what the administrative record supplies.

13 C. The Private Defendants object to this interrogatory because it is overly broad
14 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
15 the Private Defendants’ conduct is relevant, the action’s claims and Court’s preliminary
16 injunction pertain only to publication via Defense Distributed’s internet website—not the
17 methods identified in this interrogatory.

19 D. The Private Defendants object to this interrogatory because it is not
20 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). Even if the fact
21 of such sales or distributions were relevant, the number or persons at issue is not.

23 E. Defendants Second Amendment Foundation, Inc., and Conn Williamson
24 object to this interrogatory because it is not proportional to the needs of the case
25 considering the parties’ relative access to relevant information. The obligation to respond
26 to this interrogatory, if any, should be limited to Defense Distributed.

1 F. The Private Defendants object to this request because it made for an
2 improper purpose.

3 G. The Private Defendants object to this request because it is made to cause
4 annoyance, oppression, and to harass the Private Defendants.
5

6 **V. Interrogatory Number 5.**

7 Interrogatory Number 5 provides as follows: “Describe in detail any method(s) by
8 which you have sold or distributed any Subject Files to any person on or after July 31,
9 2018, and any method(s) by which you have participated in or facilitated such sale or
10 distribution of any Subject Files.”
11

12 A. The Private Defendants object to this interrogatory because it is not “relevant
13 to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve
14 any claim against the Private Defendants; it involves only Administrative Procedure Act
15 claims against the Federal Government that depend solely upon an administrative record.
16 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
17 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
18

19 B. The Private Defendants object to this interrogatory because it is not “relevant
20 to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This is so because the action’s
21 claims and Court’s preliminary injunction pertain only to publication via Defense
22 Distributed’s internet website—not the other activities at issue in this request.
23

24 C. The Private Defendants object to this interrogatory because it is not
25 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so
26 because, even if the fact of a sale or distribution were relevant, the “detail[s]” of any sale
27

1 or distribution are disproportionately unimportant.

2 D. Defendants Second Amendment Foundation, Inc., and Conn Williamson
3 object to this interrogatory because it is not proportional to the needs of the case
4 considering the parties' relative access to relevant information. The obligation to respond
5 to this interrogatory, if any, should be limited to Defense Distributed.
6

7 E. The Private Defendants object to this request because it made for an
8 improper purpose.
9

10 F. The Private Defendants object to this request because it is made to cause
11 annoyance, oppression, and to harass the Private Defendants.

12 **VI. Interrogatory Number 6.**

13 Interrogatory Number 6 provides as follows: "As to the persons referenced in
14 Interrogatory No. 4 to whom Subject Files were sold or distributed, describe in detail any
15 and all steps you took, if any, to determine the following: (1) whether such persons are
16 U.S. citizens or lawful permanent residents; (2) whether such persons are located within
17 the United States (and if so, in which states); and (3) whether such persons are eligible to
18 possess a firearm in any relevant jurisdiction(s)."
19

20
21 A. The Private Defendants object to this interrogatory for the reasons stated in
22 the Private Defendants objections to Interrogatory No. 4.

23 B. The Private Defendants object to this interrogatory because it is not "relevant
24 to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). Even if the fact of such a sale
25 or distribution were relevant, the determinations inquired about by this interrogatory are
26 not.
27

1 C. The Private Defendants object to this request because it made for an
2 improper purpose.

3 D. The Private Defendants object to this request because it is made to cause
4 annoyance, oppression, and to harass the Private Defendants.

5 E. The Private Defendants object to this request to the extent it seeks personally
6 identifiable information (“PII”) on customers due to privacy concerns, which may include,
7 for example, laws that prohibit providing a customer’s PII without a court order or the
8 customer’s written consent.
9

10 **VII. Interrogatory Number 7.**

11 Interrogatory Number 7 provides as follows: “List any and all crimes with which
12 Defense Distributed, Cody Wilson, or any person in active concert or participation with
13 either of them has been charged or convicted within the last ten years and describe the
14 outcome of each charge or conviction.”
15

16 A. The Private Defendants object to this interrogatory because it is not “relevant
17 to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve
18 any claim against the Private Defendants; it involves only Administrative Procedure Act
19 claims against the Federal Government that depend solely upon an administrative record.
20
21 See 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
22 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
23

24 B. The Private Defendants object to this interrogatory because it is not
25 proportional to the needs of the case. See Fed. R. Civ. P. 26(b)(1), (b)(2). This is so
26 because the interrogatory seeks information that is duplicative of what the administrative
27

1 record identifies and, to the extent that it is not duplicative, disproportionately unimportant
2 in comparison to what the administrative record identifies.

3 C. The Private Defendants object to this interrogatory because it is overly broad
4 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory
5 pertains to “any and all crimes” without limitations regarding subject matter.
6

7 D. The Private Defendants object to this interrogatory because it is overly broad
8 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory
9 pertains to “any person in active concert or participation with” Defense Distributed and
10 Cody Wilson without any limitations regarding subject matter, place, or time.
11

12 E. The Private Defendants object to this interrogatory because it is overly broad
13 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory
14 pertains to both charges and convictions; but even if convictions are relevant, charges are
15 not.
16

17 F. The Private Defendants object to this request because it made for an
18 improper purpose.
19

20 G. The Private Defendants object to this request because it is made to cause
21 annoyance, oppression, and to harass the Private Defendants.

22 **VIII. Interrogatory Number 8.**

23 Interrogatory Number 8 provides as follows: “For the period of July 31, 2018 to the
24 present, list (by city and country) all destinations outside the United States to which Cody
25 Wilson has traveled or to which he currently plans to travel, and as to each destination,
26 provide the dates of Mr. Wilson’s actual or planned departure from and return to the United
27

1 States.”

2
3 A. The Private Defendants object to this interrogatory because it is not “relevant
4 to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve
5 any claim against the Private Defendants or Cody Wilson; it involves only Administrative
6 Procedure Act claims against the Federal Government that depend solely upon an
7 administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not
8 address the Private Defendants or Cody Wilson; it addresses only the Federal Defendants.
9
10 Dkt. 95 at 25.

11
12 B. The Private Defendants object to this interrogatory because it is not “relevant
13 to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). Even if some aspect of the
14 Private Defendants’ conduct is relevant, Cody Wilson’s travel is not.

15
16 C. The Private Defendants object to this interrogatory because it is overly broad
17 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request
18 pertains to all travel without any limitations regarding the travel’s nature.

19
20 D. The Private Defendants object to this interrogatory because it is not
21 proportional to the needs of the case considering the parties’ relative access to relevant
22 information. The obligation to respond to this interrogatory, if any, should be limited to
23 Defense Distributed.

24
25 E. The Private Defendants object to this request because it made for an
26 improper purpose.

27 F. The Private Defendants object to this request because it is made to cause

annoyance, oppression, and to harass the Private Defendants.

IX. Interrogatory Number 9

Interrogatory Number 9 provides as follows: “Identify all persons or entities who participated in the planning, funding, production, editing, or distribution of the video previously located at the following hyperlink: <https://www.youtube.com/watch?v=5BqlXllkSoA&feature=outu.be>. For each person or organization involved in the planning, funding, production, editing, or distribution of the video, state the exact nature of the person or entity’s involvement.”

A. The Private Defendants object to this interrogatory because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

B. The Private Defendants object to this interrogatory because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). Even if some aspect of the Private Defendants’ conduct is relevant, the video at issue here is not.

C. The Private Defendants object to this interrogatory because it is overly broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). Even if some aspect of the video’s publication is relevant, the “exact nature” of its “planning, funding, production, editing, or distribution” is not.

D. Defendants Second Amendment Foundation, Inc., and Conn Williamson

1 object to this interrogatory because it is not proportional to the needs of the case
2 considering the parties' relative access to relevant information. The obligation to respond
3 to this interrogatory, if any, should be limited to Defense Distributed.

4
5 E. The Private Defendants object to this request because it made for an
6 improper purpose.

7 F. The Private Defendants object to this request because it is made to cause
8 annoyance, oppression, and to harass the Private Defendants.

9 10 **RESPONSES TO REQUESTS FOR PRODUCTION**

11 **GENERAL OBJECTIONS**

12 The Court should issue a Rule 12 judgment on the pleadings dismissing the Private
13 Defendants from this action, Dkt. 114, in which case the Private Defendants would not be
14 subject to interrogatories, requests for production, and other discovery devices that apply
15 to a party. *See* Fed. R. Civ. P. 26. Hence, the Private Defendants submit that they should
16 not be required to comply with any requests for production unless and until the Court
17 resolves their Rule 12 motion. *See* Dkt. 114.

18
19 The Private Defendants object to the Instructions and Definitions provided with the
20 requests to the extent they seek to impose burdens greater than those imposed by the
21 Federal Rules of Civil Procedure.

22
23 The Private Defendants object to the Instructions provided with the requests to the
24 extent they seek the creation of documents not in existence or in the Private Defendants'
25 possession.

26
27 The Private Defendants object to the Definitions provided with the requests to the

1 extent they impose definitions of terms outside commonly understood meanings.

2 The Private Defendants object to the requests to the extent they seek the content of
3 privileged attorney-client communications and/or confidential work product. The Private
4 Defendants will produce a privilege log if compelled to produce documents and remain in
5 the case.
6

7 These general objections are applicable to, and included in, the Private Defendants'
8 responses set forth below.
9

10 **RESPONSES**

11 **I. Request for Production Number 1.**

12 Request for Production Number 1 provides as follows: "Produce all documents and
13 communications concerning or relating to any party or non-party's posting of any Subject
14 Files online, or otherwise making any Subject Files publicly available via the internet, on
15 or after July 31, 2018." Responsive materials are being withheld on the basis of the
16 following objections.
17

18 A. The Private Defendants object to this request because it is not "relevant to
19 any party's claim or defense." Fed. R. Civ. P. 26(b)(1). This action does not involve any
20 claim against the Private Defendants; it involves only Administrative Procedure Act claims
21 against the Federal Government that depend solely upon an administrative record. *See* 5
22 U.S.C. § 706. The Court's preliminary injunction does not address the Private Defendants
23 or non-parties; it addresses only the Federal Defendants. Dkt. 95 at 25.
24

25 B. The Private Defendants object to this request because it is not proportional
26 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
27

1 seeks information that is disproportionately unimportant in comparison to what the
2 administrative record supplies.

3
4 C. The Private Defendants object to this request because it is overly broad and
5 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
6 to *non-party* actions without regard to the Private Defendants' relationship thereto.
7

8 D. The Private Defendants object to this request because it is overly broad and
9 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
10 "all documents and communications concerning or relating to" the activities at issue
11 regardless of the *nature* of the Private Defendants' relationship to the activity.
12

13 E. The Private Defendants object to this request because it made for an
14 improper purpose.
15

16 F. The Private Defendants object to this request because it is made to cause
17 annoyance, oppression, and to harass the Private Defendants.
18

19 **II. Request for Production Number 2.**

20 Request for Production Number 2 provides as follows: "Produce all documents and
21 communications concerning or relating to any party or non-party's sale or distribution of
22 any Subject Files to any persons via mail or courier, email, secure download, or any other
23 method, on or after July 31, 2018." Responsive materials are being withheld on the basis
24 of the following objections.
25

26 A. The Private Defendants object to this request because it is not "relevant to
27 any party's claim or defense." Fed. R. Civ. P. 26(b)(1). This action does not involve any
28

1 claim against the Private Defendants; it involves only Administrative Procedure Act claims
2 against the Federal Government that depend solely upon an administrative record. *See* 5
3 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants
4 or any non-parties; it addresses only the Federal Defendants. Dkt. 95 at 25.

6 B. The Private Defendants object to this request because it is not “relevant to
7 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This is so because the action’s
8 claims and Court’s preliminary injunction pertain only to publication via Defense
9 Distributed’s internet website—not the other activities at issue in this request.

11 C. The Private Defendants object to this request because it is not proportional
12 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
13 seeks information that is disproportionately unimportant in comparison to what the
14 administrative record supplies.

16 D. The Private Defendants object to this request because it is overly broad and
17 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
18 to *non-party* actions without regard to the Private Defendants’ relationship thereto.

20 E. The Private Defendants object to this request because it is overly broad and
21 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
22 “all documents and communications concerning or relating to” the activities at issue
23 regardless of the *nature* of the Private Defendants’ relationship to the activity.

25 F. The Private Defendants object to this request because it made for an
26 improper purpose.

27 G. The Private Defendants object to this request because it is made to cause

annoyance, oppression, and to harass the Private Defendants.

H. The Private Defendants object to this request to the extent it seeks personally identifiable information (“PII”) on customers due to privacy concerns, which may include, for example, laws that prohibit providing a customer’s PII without a court order or the customer’s written consent.

III. Request for Production Number 3.

Request for Production Number 3 provides as follows: “Produce all documents reflecting any information related to any of the persons described in Interrogatory No. 4 to whom Subject Files were sold or distributed, including but not limited to any such person’s: (i) name; (ii) address; (iii) physical location; (iv) age; (v) U.S. citizen or permanent resident status; (iv) eligibility to possess a firearm in any relevant jurisdiction(s); (v) the state and/or local sales tax that you collected related to any sale; and (vi) the amount of state and/or local sales tax that you remitted to each jurisdiction related to any sale.” Responsive materials are being withheld on the basis of the following objections.

A. The Private Defendants object to this request because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

B. The Private Defendants object to this request because it is not proportional

1 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
2 seeks information that is disproportionately unimportant in comparison to what the
3 administrative record supplies.

4
5 C. The Private Defendants object to this request because it is overly broad and
6 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if the
7 Private Defendants' conduct is relevant, the action's claims and Court's preliminary
8 injunction pertain only to publication via Defense Distributed's internet website—not the
9 methods identified in this interrogatory.

10
11 D. The Private Defendants object to this interrogatory because it is not "relevant
12 to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). Even if the fact of such a sale
13 or distribution were relevant, the details requested here are not.

14
15 E. The Private Defendants object to this request because it is overly broad and
16 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request seeks to
17 compel disclosure of private, confidential, and personal information of a non-party that is
18 not relevant to any claim in the case.

19
20 F. Defendants Second Amendment Foundation, Inc., and Conn Williamson
21 object to this interrogatory because it is not proportional to the needs of the case
22 considering the parties' relative access to relevant information. The obligation to respond
23 to this interrogatory, if any, should be limited to Defense Distributed.

24
25 G. The Private Defendants object to this request because it made for an
26 improper purpose.

27 H. The Private Defendants object to this request because it is made to cause

1 annoyance, oppression, and to harass the Private Defendants.

2 I. The Private Defendants object to this request to the extent it seeks personally
3 identifiable information (“PII”) on customers due to privacy concerns, which may include,
4 for example, laws that prohibit providing a customer’s PII without a court order or the
5 customer’s written consent.
6

7 **IV. Request for Production Number 4.**

8 Request for Production Number 4 provides as follows: “Produce all documents and
9 communications concerning or relating to the proposed, planned, or actual sale or
10 distribution of Subject Files on or after July 31, 2018, including but not limited to all
11 versions of: (i) the video identified in Interrogatory No. 9; (ii) any other videos posted on
12 YouTube, other websites, or elsewhere, or any videos that you produced or published on
13 or after July 31, 2018; (iii) any statements published on Twitter or any other social media
14 platform; (iv) any statements published on defcad.com or defdist.org or elsewhere on the
15 internet; and (v) any other published statements or content.” Responsive materials are
16 being withheld on the basis of the following objections.
17
18

19 A. The Private Defendants object to this request because it is not “relevant to
20 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
21 claim against the Private Defendants; it involves only Administrative Procedure Act claims
22 against the Federal Government that depend solely upon an administrative record. *See* 5
23 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants;
24 it addresses only the Federal Defendants. Dkt. 95 at 25.
25
26

27 B. The Private Defendants object to this request because it is not proportional

1 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
2 seeks information that is either duplicative of what the administrative record identifies or,
3 to the extent that it is not duplicative, disproportionately unimportant in comparison to
4 what the administrative record includes.

5
6 C. The Private Defendants object to this interrogatory because it is overly broad
7 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
8 the Private Defendants' conduct is relevant, the action's claims and Court's preliminary
9 injunction pertain only to publication via Defense Distributed's internet website—not the
10 other methods identified in this request.

11
12 D. The Private Defendants object to this interrogatory because it is overly broad
13 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
14 actual sales and distributions are relevant, mere proposals and plans are not.

15
16 E. The Private Defendants object to this request because it is overly broad and
17 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
18 pertains to *non-party* actions without regard to the Private Defendants' relationship
19 thereto.

20
21 F. The Private Defendants object to this request because it is overly broad and
22 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
23 “all documents and communications concerning or relating to” the activities at issue
24 regardless of the *nature* of the Private Defendants' relationship to the activity.

25
26 G. The Private Defendants object to this request because it made for an
27 improper purpose.

1 H. The Private Defendants object to this request because it is made to cause
2 annoyance, oppression, and to harass the Private Defendants.

3 I. The Private Defendants object to this request to the extent it seeks personally
4 identifiable information (“PII”) on customers due to privacy concerns, which may include,
5 for example, laws that prohibit providing a customer’s PII without a court order or the
6 customer’s written consent.
7

8 **V. Request for Production Number 5.**

9 Request for Production Number 5 provides as follows: “Produce all of your
10 communications concerning or relating to the distribution or sale of any Subject Files on
11 or after July 31, 2018, including internal communications, communications among the
12 Private Defendants, communications with any other defendants, and communications with
13 any third parties.” Responsive materials are being withheld on the basis of the following
14 objections.
15

16 A. The Private Defendants object to this request because it is not “relevant to
17 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
18 claim against the Private Defendants; it involves only Administrative Procedure Act claims
19 against the Federal Government that depend solely upon an administrative record. *See* 5
20 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants;
21 it addresses only the Federal Defendants. Dkt. 95 at 25.
22

23 B. The Private Defendants object to this request because it is not proportional
24 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
25 seeks information that is either duplicative of what the administrative record identifies or,
26
27

1 to the extent that it is not duplicative, disproportionately unimportant in comparison to
2 what the administrative record includes.

3 C. The Private Defendants object to this interrogatory because it is overly broad
4 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
5 the Private Defendants' conduct is relevant, the action's claims and Court's preliminary
6 injunction pertain only to publication via Defense Distributed's internet website—not the
7 other methods of sale and distribution identified in this request.
8

9 D. The Private Defendants object to this interrogatory because it is overly broad
10 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
11 actual sales and distributions are relevant, mere proposals and plans are not.
12

13 E. The Private Defendants object to this request because it is overly broad and
14 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
15 pertains to *non-party* actions without regard to the Private Defendants' relationship
16 thereto.
17

18 F. The Private Defendants object to this request because it is overly broad and
19 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
20 "all documents and communications concerning or relating to" the activities at issue
21 regardless of the *nature* of the Private Defendants' relationship to the activity.
22

23 G. The Private Defendants object to this request because it made for an
24 improper purpose.
25

26 H. The Private Defendants object to this request because it is made to cause
27 annoyance, oppression, and to harass the Private Defendants.

1 I. The Private Defendants object to this request to the extent it seeks personally
2 identifiable information (“PII”) on customers due to privacy concerns, which may include,
3 for example, laws that prohibit providing a customer’s PII without a court order or the
4 customer’s written consent.
5

6 **VI. Request for Production Number 6.**

7 Request for Production Number 6 provides as follows: “To the extent not produced
8 in response to any of the Requests for Production above, for the period of July 30, 2018 to
9 the present, produce all documents concerning or relating to the proposed, planned, or
10 actual posting, distribution, or sale of any Subject Files.” Responsive materials are
11 being withheld on the basis of the following objections.
12

13 A. The Private Defendants object to this request because it is not “relevant to
14 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
15 claim against the Private Defendants; it involves only Administrative Procedure Act claims
16 against the Federal Government that depend solely upon an administrative record. *See* 5
17 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants;
18 it addresses only the Federal Defendants. Dkt. 95 at 25.
19
20

21 B. The Private Defendants object to this request because it is not proportional
22 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
23 seeks information that is either duplicative of what the administrative record identifies or,
24 to the extent that it is not duplicative, disproportionately unimportant in comparison to
25 what the administrative record includes.
26

27 C. The Private Defendants object to this interrogatory because it is overly broad
28

1 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
2 the Private Defendants’ conduct is relevant, the action’s claims and Court’s preliminary
3 injunction pertain only to publication via Defense Distributed’s internet website—not the
4 other methods of posting, sale, and distribution identified in this request.
5

6 D. The Private Defendants object to this interrogatory because it is overly broad
7 and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if
8 actual postings, sales, and distributions are relevant, mere proposals and plans are not.
9

10 E. The Private Defendants object to this request because it is overly broad and
11 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
12 pertains to *non-party* actions without regard to the Private Defendants’ relationship
13 thereto.
14

15 F. The Private Defendants object to this request because it is overly broad and
16 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
17 “all documents and communications concerning or relating to” the activities at issue
18 regardless of the *nature* of the Private Defendants’ relationship to the activity.
19

20 G. The Private Defendants object to this request because it made for an
21 improper purpose.

22 H. The Private Defendants object to this request because it is made to cause
23 annoyance, oppression, and to harass the Private Defendants.
24

25 I. The Private Defendants object to this request to the extent it seeks personally
26 identifiable information (“PII”) on customers due to privacy concerns, which may include,
27 for example, laws that prohibit providing a customer’s PII without a court order or the
28

customer's written consent.

VII. Request for Production Number 7.

Request for Production Number 7 provides as follows: "Produce all documents concerning or relating to any criminal charges or convictions as referenced in Interrogatory No. 7." Responsive materials are being withheld on the basis of the following objections.

A. The Private Defendants object to this request because it is not "relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court's preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

B. The Private Defendants object to this request because it is not proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the interrogatory seeks information that is duplicative of what the administrative record identifies and, to the extent that it is not duplicative, disproportionately unimportant in comparison to what the administrative record identifies.

C. The Private Defendants object to this request because it is overly broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory pertains to "any and all crimes" without limitations regarding subject matter.

D. The Private Defendants object to this request because it is overly broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory pertains to "any person in active concert or participation with" Defense Distributed and

Cody Wilson without any limitations regarding subject matter, place, or time.

E. The Private Defendants object to this request because it is overly broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory pertains to both charges and convictions; but even if convictions are relevant, charges are not.

F. The Private Defendants object to this request because it made for an improper purpose.

G. The Private Defendants object to this request because it is made to cause annoyance, oppression, and to harass the Private Defendants.

DATED this 22nd day of October 2018.

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CERTIFICATE OF SERVICE

I certify that on October 22, 2018, I served a copy of this document upon all counsel of record via United States First-Class Mail.

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Private Defendants Answers to
Plaintiffs' First Set of Interrogatories and
Responses to Request for Production
No 2:18-cv-01115-RSL

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16 Foundation, Inc., and Conn Williamson
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EXHIBIT 3

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.

NO. 2:18-cv-01115-RSL

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

**PRIVATE DEFENDANTS'
SUPPLEMENTAL**

**ANSWERS TO PLAINTIFFS'
FIRST SET OF
INTERROGATORIES AND
RESPONSES TO REQUESTS
FOR PRODUCTION**

TO: Plaintiffs State of Washington, et al., by and through their attorneys of record,
Jeffrey Rupert, Kristin Beneski, Todd Bowers, Jeff Sprung and Zachary P. Jones,
Attorney General Office

Defendants Defense Distributed, Second Amendment Foundation, Inc., and Conn
Williamson (the "Private Defendants") hereby serve their supplemental answers to
Plaintiffs' First Set of Interrogatories and responses to Request for Production.

ANSWERS TO INTERROGATORIES

GENERAL OBJECTIONS

The Private Defendants reserve their objection to being required to participate in the litigation as a “party” for the reasons given in their motion for judgment on the pleadings, Dkt. 114, and reply in support thereof, Dkt. 125.

The Private Defendants object to the Instructions and Definitions provided with the interrogatories to the extent they seek to impose burdens greater than those imposed by the Federal Rules of Civil Procedure.

The Private Defendants object to the Instructions provided with the interrogatories to the extent they impose interrogatories beyond those numerated in the requests.

The Private Defendants object to the Definitions provided with the interrogatories to the extent they impose definitions of terms outside commonly understood meanings.

The Private Defendants object to the requests to the extent they seek the content of privileged attorney-client communications and/or confidential work product. The Private Defendants will produce a privilege log if compelled to produce documents and remain in the case.

These general objections are applicable to, and included in, the Private Defendants’ answers set forth below.

ANSWERS

I. Interrogatory Number 1.

Interrogatory No. 1 provides as follows: “Identify all persons who are officers, directors, shareholders, founders, members, employees, or agents of Defense Distributed, or who are otherwise affiliated with or who have authority to act on behalf of Defense Distributed.”

A. The Private Defendants object to this interrogatory because the compelled disclosure of these associational and expressive activities violates the First and Fourteenth Amendments of the Constitution of the United States. *See NAACP v. Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th Cir. 2010).

B. The Private Defendants object to this interrogatory because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

C. The Private Defendants object to this interrogatory because it is not proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the interrogatory seeks information that is duplicative of what the administrative record identifies and, to the extent that it is not duplicative, disproportionately unimportant in comparison to what the administrative record identifies.

1 D. The Private Defendants object to this interrogatory because it is overly
 2 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
 3 even if the identity of *some* persons affiliated with Defense Distributed were relevant to a
 4 party's claim or defense, the interrogatory demands identification of "all persons. . .
 5 affiliated with . . . or who have authority to act on behalf of Defense Distributed" without
 6 any limitations regarding subject matter, place, or time.
 7

8 E. Defendants Second Amendment Foundation, Inc., and Conn Williamson
 9 object to this interrogatory because it is not proportional to the needs of the case
 10 considering the parties' relative access to relevant information. The obligation to
 11 respond to this interrogatory, if any, should be limited to Defense Distributed.
 12

13 Subject to the foregoing objections, the Private Defendants respond as follows:

14 Cody Wilson co-founded Defense Distributed. Paloma Heindorff is Defense
 15 Distributed's Director.
 16

17 **II. Interrogatory Number 2.**

18 Interrogatory Number 2 provides as follows: "State whether you posted any
 19 Subject Files online, or otherwise made them publicly available via the internet, on or
 20 after July 31, 2018. If you did, identify the URL(s), the exact date and time of any such
 21 posting, and the individual(s) responsible for or involved in any such posting, and
 22 describe in detail the actions of each such individual in connection with each such
 23 posting."
 24

25 A. The Private Defendants object to this interrogatory because the compelled
 26 disclosure of these associational and expressive activities violates the First and
 27

1 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
 2 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
 3 Cir. 2010).

4
 5 B. The Private Defendants object to this interrogatory because it is not
 6 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not
 7 involve any claim against the Private Defendants; it involves only Administrative
 8 Procedure Act claims against the Federal Government that depend solely upon an
 9 administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not
 10 address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

11
 12 C. The Private Defendants object to this request because it made for an
 13 improper purpose.

14
 15 D. The Private Defendants object to this request because it is made to cause
 16 annoyance, oppression, and to harass the Private Defendants.

17 Subject to the foregoing objections, the Private Defendants respond as follows:

18 After July 31, 2018, the Private Defendants did not post any Subject Files online
 19 or otherwise make them publicly available via the internet.
 20

21 **III. Interrogatory Number 3.**

22 Interrogatory Number 3 provides as follows: “State whether you assisted or
 23 facilitated any other person in posting any Subject Files online, or otherwise making
 24 them publicly available via the internet, on or after July 31, 2018. If you did, identify the
 25 URL(s), the exact date and time of any such posting, and the individual(s) responsible for
 26 or involved in any such posting, and describe in detail the actions of each such individual
 27

1 in connection with each such posting.”

2 A. The Private Defendants object to this interrogatory because the compelled
3 disclosure of these associational and expressive activities violates the First and
4 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
5 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
6 Cir. 2010).

7
8 B. The Private Defendants object to this interrogatory because it is not
9 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not
10 involve any claim against the Private Defendants; it involves only Administrative
11 Procedure Act claims against the Federal Government that depend solely upon an
12 administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not
13 address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
14

15
16 C. The Private Defendants object to this request because it made for an
17 improper purpose.

18 D. The Private Defendants object to this request because it is made to cause
19 annoyance, oppression, and to harass the Private Defendants.
20

21 E. The Private Defendants object to this request because the Plaintiff States
22 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
23 by hand or mail are both not relevant to this action and legal.
24

25 F. The Private Defendants object to the scope of this request because “assist”
26 and “facilitate” could encompass constitutionally-protected speech about posting Subject
27 Files online, including, *e.g.*, the contents of briefs filed with the Court in this matter and
28

maintained online by the Clerk of the Court. *See e.g.*, Dkt 63 at n. 3 (Private Defendants’ Brief in Opposition to Plaintiff States’ Motion for Preliminary Injunction, with active hyperlinks to websites offering Subject Files for free public download).

Subject to the foregoing objections, the Private Defendants respond as follows:

After July 31, 2018, the Private Defendants did not assist or facilitate any other person in posting any Subject Files online, or otherwise making them publicly available via the internet.

IV. Interrogatory Number 4.

Interrogatory Number 4 provides as follows: “State the total number of persons to whom you sold or distributed any Subject Files via mail or courier, email, secure download, or any other method, on or after July 31, 2018, or as to whom you participated in or facilitated such sale or distribution of any Subject Files.”

A. The Private Defendants object to this interrogatory because the compelled disclosure of these associational and expressive activities violates the First and Fourteenth Amendments of the Constitution of the United States. *See NAACP v. Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th Cir. 2010).

B. The Private Defendants object to this interrogatory because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not

1 address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

2 C. The Private Defendants object to this interrogatory because it is not
3 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so
4 because the request seeks information that is disproportionately unimportant in
5 comparison to what the administrative record supplies.
6

7 D. The Private Defendants object to this interrogatory because it is overly
8 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
9 even if the Private Defendants' conduct is relevant, the action's claims and Court's
10 preliminary injunction pertain only to publication via Defense Distributed's internet
11 website—not the methods identified in this interrogatory.
12

13 E. The Private Defendants object to this interrogatory because it is not
14 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). Even if the
15 fact of such sales or distributions were relevant, the number or persons at issue is not.
16

17 F. The Private Defendants object to this request because the Plaintiff States
18 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
19 by hand or mail are both not relevant to this action and legal.
20

21 G. The Private Defendants object to this request because it made for an
22 improper purpose.
23

24 H. The Private Defendants object to this request because it is made to cause
25 annoyance, oppression, and to harass the Private Defendants.

26 I. Defendants Second Amendment Foundation, Inc., and Conn Williamson
27 object to this interrogatory because it is not proportional to the needs of the case
28

1 considering the parties' relative access to relevant information. The obligation to
 2 respond to this interrogatory, if any, should be limited to Defense Distributed.

3 Subject to the forgoing objections, the Private Defendants respond as follows:

4 After July 31, 2018, the Private Defendants did not post any Subject Files online
 5 or otherwise make them publicly available via the internet, and did not assist or
 6 facilitate any other person in posting any Subject Files online or otherwise making
 7 them publicly available via the internet. After August 27, 2018, Defense
 8 Distributed distributed the Subject Files via United States Postal Service mail.
 9
 10

11 **V. Interrogatory Number 5.**

12 Interrogatory Number 5 provides as follows: "Describe in detail any method(s) by
 13 which you have sold or distributed any Subject Files to any person on or after July 31,
 14 2018, and any method(s) by which you have participated in or facilitated such sale or
 15 distribution of any Subject Files."
 16

17 A. The Private Defendants object to this interrogatory because the compelled
 18 disclosure of these associational and expressive activities violates the First and
 19 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
 20 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
 21 Cir. 2010).
 22

23 B. The Private Defendants object to this interrogatory because it is not
 24 "relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). This action does not
 25 involve any claim against the Private Defendants; it involves only Administrative
 26 Procedure Act claims against the Federal Government that depend solely upon an
 27

1 administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not
2 address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

3 C. The Private Defendants object to this interrogatory because it is not
4 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This is so because
5 the action’s claims and Court’s preliminary injunction pertain only to publication via
6 Defense Distributed’s internet website—not the other activities at issue in this request.

7 D. The Private Defendants object to this interrogatory because it is not
8 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so
9 because, even if the fact of a sale or distribution were relevant, the “detail[s]” of any sale
10 or distribution are disproportionately unimportant.

11 E. Defendants Second Amendment Foundation, Inc., and Conn Williamson
12 object to this interrogatory because it is not proportional to the needs of the case
13 considering the parties’ relative access to relevant information. The obligation to
14 respond to this interrogatory, if any, should be limited to Defense Distributed.

15 F. The Private Defendants object to this request because it made for an
16 improper purpose.

17 G. The Private Defendants object to this request because it is made to cause
18 annoyance, oppression, and to harass the Private Defendants.

19 H. The Private Defendants object to this request because the Plaintiff States
20 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
21 by hand or mail are both not relevant to this action and legal.

1 Subject to the forgoing objections, the Private Defendants respond as follows:

2 After July 31, 2018, the Private Defendants did not post any Subject Files online
3 or otherwise make them publicly available via the internet, and did not assist or
4 facilitate any other person in posting any Subject Files online or otherwise making
5 them publicly available via the internet. After August 27, 2018, Defense
6 Distributed distributed the Subject Files via United States Postal Service mail.
7

8 **VI. Interrogatory Number 6.**

9 Interrogatory Number 6 provides as follows: “As to the persons referenced in
10 Interrogatory No. 4 to whom Subject Files were sold or distributed, describe in detail any
11 and all steps you took, if any, to determine the following: (1) whether such persons are
12 U.S. citizens or lawful permanent residents; (2) whether such persons are located within
13 the United States (and if so, in which states); and (3) whether such persons are eligible to
14 possess a firearm in any relevant jurisdiction(s).”
15

16
17 A. The Private Defendants object to this interrogatory for the reasons stated in
18 the Private Defendants objections to Interrogatory No. 4.
19

20 B. The Private Defendants object to this interrogatory because the compelled
21 disclosure of these associational and expressive activities violates the First and
22 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
23 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
24 Cir. 2010).
25

26 C. The Private Defendants object to this interrogatory because it is not
27 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). Even if the fact of
28

1 such a sale or distribution were relevant, the determinations inquired about by this
2 interrogatory are not.

3 D. The Private Defendants object to this request because it made for an
4 improper purpose.
5

6 E. The Private Defendants object to this request because it is made to cause
7 annoyance, oppression, and to harass the Private Defendants.

8 F. The Private Defendants object to this request to the extent it seeks
9 personally identifiable information (“PII”) on customers due to privacy concerns, which
10 may include, for example, laws that prohibit providing a customer’s PII without a court
11 order or the customer’s written consent.
12

13 G. The Private Defendants object to this request because the Plaintiff States
14 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
15 by hand or mail are both not relevant to this action and legal.
16

17 Subject to the forgoing objections, the Private Defendants respond as follows:

18 After July 31, 2018, the Private Defendants did not post any Subject Files online
19 or otherwise make them publicly available via the internet, and did not assist or
20 facilitate any other person in posting any Subject Files online or otherwise making
21 them publicly available via the internet. After August 27, 2018, Defense
22 Distributed distributed the Subject Files via United States Postal Service mail.
23

24 **VII. Interrogatory Number 7.**
25

26 Interrogatory Number 7 provides as follows: “List any and all crimes with which
27 Defense Distributed, Cody Wilson, or any person in active concert or participation with
28

1 either of them has been charged or convicted within the last ten years and describe the
2 outcome of each charge or conviction.”

3 A. The Private Defendants object to this interrogatory because a response
4 identifying “any person in active concert or participation with either of” Defense
5 Distributed or Cody Wilson constitutes the compelled disclosure of associational and
6 expressive activities in violation of the First and Fourteenth Amendments of the
7 Constitution of the United States. *See NAACP v. Alabama*, 357 U.S. 449, 460 (1958);
8 *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th Cir. 2010).
9
10

11 B. The Private Defendants object to this interrogatory because it is not
12 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not
13 involve any claim against the Private Defendants; it involves only Administrative
14 Procedure Act claims against the Federal Government that depend solely upon an
15 administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not
16 address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
17

18 C. The Private Defendants object to this interrogatory because it is not
19 proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so
20 because the interrogatory seeks information that is duplicative of what the administrative
21 record identifies and, to the extent that it is not duplicative, disproportionately
22 unimportant in comparison to what the administrative record identifies.
23

24 D. The Private Defendants object to this interrogatory because it is overly
25 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the
26 interrogatory pertains to “any and all crimes” without limitations regarding subject
27

1 matter.

2 E. The Private Defendants object to this interrogatory because it is overly
3 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the
4 interrogatory pertains to “any person in active concert or participation with” Defense
5 Distributed and Cody Wilson without any limitations regarding subject matter, place, or
6 time.
7

8 F. The Private Defendants object to this interrogatory because it is overly
9 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the
10 interrogatory pertains to both charges and convictions; but even if convictions are
11 relevant, charges are not.
12

13 G. The Private Defendants object to this request because it made for an
14 improper purpose.
15

16 H. The Private Defendants object to this request because it is made to cause
17 annoyance, oppression, and to harass the Private Defendants.
18

19 **VIII. Interrogatory Number 8.**

20 Interrogatory Number 8 provides as follows: “For the period of July 31, 2018 to
21 the present, list (by city and country) all destinations outside the United States to which
22 Cody Wilson has traveled or to which he currently plans to travel, and as to each
23 destination, provide the dates of Mr. Wilson’s actual or planned departure from and
24 return to the United States.”
25

26 A. The Private Defendants object to this interrogatory because the compelled
27 disclosure of these associational and expressive activities violates the First and
28

1 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
2 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
3 Cir. 2010).

4
5 B. The Private Defendants object to this interrogatory because it is not
6 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not
7 involve any claim against the Private Defendants or Cody Wilson; it involves only
8 Administrative Procedure Act claims against the Federal Government that depend solely
9 upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction
10 does not address the Private Defendants or Cody Wilson; it addresses only the Federal
11 Defendants. Dkt. 95 at 25.

12
13 C. The Private Defendants object to this interrogatory because it is not
14 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). Even if some aspect
15 of the Private Defendants’ conduct is relevant, Cody Wilson’s travel is not.

16
17 D. The Private Defendants object to this interrogatory because it is overly
18 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the
19 request pertains to all travel without any limitations regarding the travel’s nature.

20
21 E. The Private Defendants object to this interrogatory because it is not
22 proportional to the needs of the case considering the parties’ relative access to relevant
23 information. The obligation to respond to this interrogatory, if any, should be limited to
24 Defense Distributed.

25
26 F. The Private Defendants object to this request because it made for an
27 improper purpose.

1 G. The Private Defendants object to this request because it is made to cause
2 annoyance, oppression, and to harass the Private Defendants.

3 **IX. Interrogatory Number 9**

4 Interrogatory Number 9 provides as follows: “Identify all persons or entities who
5 participated in the planning, funding, production, editing, or distribution of the video
6 previously located at the following hyperlink:
7 <https://www.youtube.com/watch?v=5BqIXlkSoA&feature=outu.be>. For each person or
8 organization involved in the planning, funding, production, editing, or distribution of the
9 video, state the exact nature of the person or entity’s involvement.”
10

11 A. The Private Defendants object to this interrogatory because the compelled
12 disclosure of these associational and expressive activities violates the First and
13 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
14 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
15 Cir. 2010).
16

17 B. The Private Defendants object to this interrogatory because it is not
18 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not
19 involve any claim against the Private Defendants; it involves only Administrative
20 Procedure Act claims against the Federal Government that depend solely upon an
21 administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not
22 address the Private Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
23

24 C. The Private Defendants object to this interrogatory because it is not
25 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). Even if some aspect
26

1 of the Private Defendants' conduct is relevant, the video at issue here is not.

2 D. The Private Defendants object to this interrogatory because it is overly
3 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). Even if some aspect of the
4 video's publication is relevant, the "exact nature" of its "planning, funding, production,
5 editing, or distribution" is not.
6

7 E. Defendants Second Amendment Foundation, Inc., and Conn Williamson
8 object to this interrogatory because it is not proportional to the needs of the case
9 considering the parties' relative access to relevant information. The obligation to
10 respond to this interrogatory, if any, should be limited to Defense Distributed.
11

12 F. The Private Defendants object to this request because it made for an
13 improper purpose.
14

15 G. The Private Defendants object to this request because it is made to cause
16 annoyance, oppression, and to harass the Private Defendants.
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RESPONSES TO REQUESTS FOR PRODUCTION

GENERAL OBJECTIONS

The Private Defendants reserve their objection to being required to participate in the litigation as a “party” for the reasons given in their motion for judgment on the pleadings, Dkt. 114, and reply in support thereof, Dkt. 125.

The Private Defendants object to the Instructions and Definitions provided with the requests to the extent they seek to impose burdens greater than those imposed by the Federal Rules of Civil Procedure.

The Private Defendants object to the Instructions provided with the requests to the extent they seek the creation of documents not in existence or in the Private Defendants’ possession.

The Private Defendants object to the Definitions provided with the requests to the extent they impose definitions of terms outside commonly understood meanings.

The Private Defendants object to the requests to the extent they seek the content of privileged attorney-client communications and/or confidential work product. The Private Defendants will produce a privilege log if compelled to produce documents and remain in the case.

These general objections are applicable to, and included in, the Private Defendants’ responses set forth below.

RESPONSES

I. Request for Production Number 1.

Request for Production Number 1 provides as follows: “Produce all documents and communications concerning or relating to any party or non-party’s posting of any Subject Files online, or otherwise making any Subject Files publicly available via the internet, on or after July 31, 2018.” Responsive materials are being withheld on the basis of the following objections.

A. The Private Defendants object to this request because the compelled disclosure of these associational and expressive activities violates the First and Fourteenth Amendments of the Constitution of the United States. *See NAACP v. Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th Cir. 2010).

B. The Private Defendants object to this request because it is not “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any claim against the Private Defendants; it involves only Administrative Procedure Act claims against the Federal Government that depend solely upon an administrative record. *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private Defendants or non-parties; it addresses only the Federal Defendants. Dkt. 95 at 25.

C. The Private Defendants object to this request because it is not proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request seeks information that is disproportionately unimportant in comparison to what the administrative record supplies.

1 D. The Private Defendants object to this request because it is overly broad and
2 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
3 to *non-party* actions without regard to the Private Defendants' relationship thereto.

4 E. The Private Defendants object to this request because it is overly broad and
5 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
6 "all documents and communications concerning or relating to" the activities at issue
7 regardless of the *nature* of the Private Defendants' relationship to the activity.
8

9 F. The Private Defendants object to this request because it made for an
10 improper purpose.
11

12 G. The Private Defendants object to this request because it is made to cause
13 annoyance, oppression, and to harass the Private Defendants.
14

15 Subject to the foregoing objections, the Private Defendants respond as follows:

16 After July 31, 2018, the Private Defendants did not post any Subject Files online
17 or otherwise make them publicly available via the internet, and did not assist or
18 facilitate any other person in posting any Subject Files online or otherwise making
19 them publicly available via the internet. Because no such events occurred, the
20 Private Defendants have no nonprivileged documents concerning or relating to
21 them.
22

23 **II. Request for Production Number 2.**
24

25 Request for Production Number 2 provides as follows: "Produce all documents
26 and communications concerning or relating to any party or non-party's sale or
27 distribution of any Subject Files to any persons via mail or courier, email, secure
28

1 download, or any other method, on or after July 31, 2018.” Responsive materials are
2 being withheld on the basis of the following objections.

3 A. The Private Defendants object to this request because the compelled
4 disclosure of these associational and expressive activities violates the First and
5 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
6 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
7 Cir. 2010).

8
9 B. The Private Defendants object to this request because it is not “relevant to
10 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
11 claim against the Private Defendants; it involves only Administrative Procedure Act
12 claims against the Federal Government that depend solely upon an administrative record.
13 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
14 Defendants or any non-parties; it addresses only the Federal Defendants. Dkt. 95 at 25.

15
16 C. The Private Defendants object to this request because it is not “relevant to
17 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This is so because the action’s
18 claims and Court’s preliminary injunction pertain only to publication via Defense
19 Distributed’s internet website—not the other activities at issue in this request.

20
21 D. The Private Defendants object to this request because it is not proportional
22 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the
23 request seeks information that is disproportionately unimportant in comparison to what
24 the administrative record supplies.
25
26
27

1 E. The Private Defendants object to this request because it is overly broad and
2 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
3 to *non-party* actions without regard to the Private Defendants' relationship thereto.

4 F. The Private Defendants object to this request because it is overly broad and
5 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
6 "all documents and communications concerning or relating to" the activities at issue
7 regardless of the *nature* of the Private Defendants' relationship to the activity.

8 G. The Private Defendants object to this request because it made for an
9 improper purpose.

10 H. The Private Defendants object to this request because it is made to cause
11 annoyance, oppression, and to harass the Private Defendants.

12 I. The Private Defendants object to this request to the extent it seeks
13 personally identifiable information ("PII") on customers due to privacy concerns, which
14 may include, for example, laws that prohibit providing a customer's PII without a court
15 order or the customer's written consent.

16 J. The Private Defendants object to this request because the Plaintiff States
17 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
18 by hand or mail are both not relevant to this action and legal.

19 Subject to the foregoing objections, the Private Defendants respond as follows:

20 After July 31, 2018, the Private Defendants did not post any Subject Files online
21 or otherwise make them publicly available via the internet, and did not assist or
22 facilitate any other person in posting any Subject Files online or otherwise making

1 them publicly available via the internet. Because no such events occurred, the
 2 Private Defendants have no nonprivileged documents concerning or relating to
 3 them.

4 **III. Request for Production Number 3.**

5 Request for Production Number 3 provides as follows: “Produce all documents
 6 reflecting any information related to any of the persons described in Interrogatory No. 4
 7 to whom Subject Files were sold or distributed, including but not limited to any such
 8 person’s: (i) name; (ii) address; (iii) physical location; (iv) age; (v) U.S. citizen or
 9 permanent resident status; (iv) eligibility to possess a firearm in any relevant
 10 jurisdiction(s); (v) the state and/or local sales tax that you collected related to any sale;
 11 and (vi) the amount of state and/or local sales tax that you remitted to each jurisdiction
 12 related to any sale.” Responsive materials are being withheld on the basis of the
 13 following objections.
 14 following objections.

15 A. The Private Defendants object to this request because the compelled
 16 disclosure of these associational and expressive activities violates the First and
 17 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
 18 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
 19 Cir. 2010).

20 B. The Private Defendants object to this request because it is not “relevant to
 21 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
 22 claim against the Private Defendants; it involves only Administrative Procedure Act
 23 claims against the Federal Government that depend solely upon an administrative record.
 24 claims against the Federal Government that depend solely upon an administrative record.

1 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
2 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

3 C. The Private Defendants object to this request because it is not proportional
4 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the
5 request seeks information that is disproportionately unimportant in comparison to what
6 the administrative record supplies.

7
8 D. The Private Defendants object to this request because it is overly broad and
9 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because, even if the
10 Private Defendants’ conduct is relevant, the action’s claims and Court’s preliminary
11 injunction pertain only to publication via Defense Distributed’s internet website—not the
12 methods identified in this interrogatory.

13
14 E. The Private Defendants object to this interrogatory because it is not
15 “relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). Even if the fact of
16 such a sale or distribution were relevant, the details requested here are not.

17
18 F. The Private Defendants object to this request because it is overly broad and
19 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request seeks
20 to compel disclosure of private, confidential, and personal information of a non-party
21 that is not relevant to any claim in the case.

22
23 G. Defendants Second Amendment Foundation, Inc., and Conn Williamson
24 object to this interrogatory because it is not proportional to the needs of the case
25 considering the parties’ relative access to relevant information. The obligation to
26 respond to this interrogatory, if any, should be limited to Defense Distributed.

1 H. The Private Defendants object to this request because it made for an
2 improper purpose.

3 I. The Private Defendants object to this request because it is made to cause
4 annoyance, oppression, and to harass the Private Defendants.

5
6 J. The Private Defendants object to this request to the extent it seeks
7 personally identifiable information (“PII”) on customers due to privacy concerns, which
8 may include, for example, laws that prohibit providing a customer’s PII without a court
9 order or the customer’s written consent.

10
11 K. The Private Defendants object to this request because the Plaintiff States
12 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
13 by hand or mail are both not relevant to this action and legal.

14
15 Subject to the foregoing objections, the Private Defendants respond as follows:

16 After July 31, 2018, the Private Defendants did not post any Subject Files online
17 or otherwise make them publicly available via the internet, and did not assist or
18 facilitate any other person in posting any Subject Files online or otherwise making
19 them publicly available via the internet. Because no such events occurred, the
20 Private Defendants have no nonprivileged documents concerning or relating to
21 them.
22

23 **IV. Request for Production Number 4.**

24 Request for Production Number 4 provides as follows: “Produce all documents
25 and communications concerning or relating to the proposed, planned, or actual sale or
26 distribution of Subject Files on or after July 31, 2018, including but not limited to all
27

1 versions of: (i) the video identified in Interrogatory No. 9; (ii) any other videos posted on
2 YouTube, other websites, or elsewhere, or any videos that you produced or published on
3 or after July 31, 2018; (iii) any statements published on Twitter or any other social media
4 platform; (iv) any statements published on defcad.com or defdist.org or elsewhere on the
5 internet; and (v) any other published statements or content.” Responsive materials are
6 being withheld on the basis of the following objections.
7

8 A. The Private Defendants object to this request because the compelled
9 disclosure of these associational and expressive activities violates the First and
10 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
11 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
12 Cir. 2010).
13

14 B. The Private Defendants object to this request because it is not “relevant to
15 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
16 claim against the Private Defendants; it involves only Administrative Procedure Act
17 claims against the Federal Government that depend solely upon an administrative record.
18 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
19 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
20

21 C. The Private Defendants object to this request because it is not proportional
22 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the
23 request seeks information that is either duplicative of what the administrative record
24 identifies or, to the extent that it is not duplicative, disproportionately unimportant in
25 comparison to what the administrative record includes.
26
27

1 D. The Private Defendants object to this interrogatory because it is overly
2 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
3 even if the Private Defendants' conduct is relevant, the action's claims and Court's
4 preliminary injunction pertain only to publication via Defense Distributed's internet
5 website—not the other methods identified in this request.
6

7 E. The Private Defendants object to this interrogatory because it is overly
8 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
9 even if actual sales and distributions are relevant, mere proposals and plans are not.
10

11 F. The Private Defendants object to this request because it is overly broad and
12 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
13 pertains to *non-party* actions without regard to the Private Defendants' relationship
14 thereto.
15

16 G. The Private Defendants object to this request because it is overly broad and
17 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
18 “all documents and communications concerning or relating to” the activities at issue
19 regardless of the *nature* of the Private Defendants' relationship to the activity.
20

21 H. The Private Defendants object to this request because it made for an
22 improper purpose.

23 I. The Private Defendants object to this request because it is made to cause
24 annoyance, oppression, and to harass the Private Defendants.
25

26 J. The Private Defendants object to this request to the extent it seeks
27 personally identifiable information (“PII”) on customers due to privacy concerns, which
28

1 may include, for example, laws that prohibit providing a customer's PII without a court
2 order or the customer's written consent.

3 K. The Private Defendants object to this request because the Plaintiff States
4 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
5 by hand or mail are both not relevant to this action and legal.
6

7 Subject to the foregoing objections, the Private Defendants respond as follows:

8 After July 31, 2018, the Private Defendants did not post any Subject Files online
9 or otherwise make them publicly available via the internet, and did not assist or
10 facilitate any other person in posting any Subject Files online or otherwise making
11 them publicly available via the internet. Because no such events occurred, the
12 Private Defendants have no nonprivileged documents concerning or relating to
13 them.
14
15

16 **V. Request for Production Number 5.**

17 Request for Production Number 5 provides as follows: "Produce all of your
18 communications concerning or relating to the distribution or sale of any Subject Files on
19 or after July 31, 2018, including internal communications, communications among the
20 Private Defendants, communications with any other defendants, and communications
21 with any third parties." Responsive materials are being withheld on the basis of the
22 following objections.
23

24 A. The Private Defendants object to this request because the compelled
25 disclosure of these associational and expressive activities violates the First and
26 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
27

1 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
2 Cir. 2010).

3 B. The Private Defendants object to this request because it is not “relevant to
4 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
5 claim against the Private Defendants; it involves only Administrative Procedure Act
6 claims against the Federal Government that depend solely upon an administrative record.
7 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
8 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
9

10 C. The Private Defendants object to this request because it is not proportional
11 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the
12 request seeks information that is either duplicative of what the administrative record
13 identifies or, to the extent that it is not duplicative, disproportionately unimportant in
14 comparison to what the administrative record includes.
15

16 D. The Private Defendants object to this interrogatory because it is overly
17 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
18 even if the Private Defendants’ conduct is relevant, the action’s claims and Court’s
19 preliminary injunction pertain only to publication via Defense Distributed’s internet
20 website—not the other methods of sale and distribution identified in this request.
21

22 E. The Private Defendants object to this interrogatory because it is overly
23 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
24 even if actual sales and distributions are relevant, mere proposals and plans are not.
25
26
27

1 F. The Private Defendants object to this request because it is overly broad and
2 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
3 pertains to *non-party* actions without regard to the Private Defendants' relationship
4 thereto.
5

6 G. The Private Defendants object to this request because it is overly broad and
7 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
8 "all documents and communications concerning or relating to" the activities at issue
9 regardless of the *nature* of the Private Defendants' relationship to the activity.
10

11 H. The Private Defendants object to this request because it made for an
12 improper purpose.
13

14 I. The Private Defendants object to this request because it is made to cause
15 annoyance, oppression, and to harass the Private Defendants.
16

17 J. The Private Defendants object to this request to the extent it seeks
18 personally identifiable information ("PII") on customers due to privacy concerns, which
19 may include, for example, laws that prohibit providing a customer's PII without a court
20 order or the customer's written consent.
21

22 K. The Private Defendants object to this request because the Plaintiff States
23 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
24 by hand or mail are both not relevant to this action and legal.
25

26 Subject to the foregoing objections, the Private Defendants respond as follows:

27 After July 31, 2018, the Private Defendants did not post any Subject Files online
28 or otherwise make them publicly available via the internet, and did not assist or

1 facilitate any other person in posting any Subject Files online or otherwise making
 2 them publicly available via the internet. Because no such events occurred, the
 3 Private Defendants have no nonprivileged documents concerning or relating to
 4 them.
 5

6 **VI. Request for Production Number 6.**

7 Request for Production Number 6 provides as follows: “To the extent not
 8 produced in response to any of the Requests for Production above, for the period of July
 9 30, 2018 to the present, produce all documents concerning or relating to the proposed,
 10 planned, or actual posting, distribution, or sale of any Subject Files.” Responsive
 11 materials are being withheld on the basis of the following objections.
 12

13 A. The Private Defendants object to this request because the compelled
 14 disclosure of these associational and expressive activities violates the First and
 15 Fourteenth Amendments of the Constitution of the United States. *See NAACP v.*
 16 *Alabama*, 357 U.S. 449, 460 (1958); *Perry v. Schwarzenegger*, 591 F.3d 1147, 1159 (9th
 17 Cir. 2010).
 18

19 B. The Private Defendants object to this request because it is not “relevant to
 20 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
 21 claim against the Private Defendants; it involves only Administrative Procedure Act
 22 claims against the Federal Government that depend solely upon an administrative record.
 23 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
 24 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.
 25
 26
 27
 28

1 C. The Private Defendants object to this request because it is not proportional
2 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the
3 request seeks information that is either duplicative of what the administrative record
4 identifies or, to the extent that it is not duplicative, disproportionately unimportant in
5 comparison to what the administrative record includes.
6

7 D. The Private Defendants object to this interrogatory because it is overly
8 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
9 even if the Private Defendants' conduct is relevant, the action's claims and Court's
10 preliminary injunction pertain only to publication via Defense Distributed's internet
11 website—not the other methods of posting, sale, and distribution identified in this
12 request.
13

14 E. The Private Defendants object to this interrogatory because it is overly
15 broad and unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because,
16 even if actual postings, sales, and distributions are relevant, mere proposals and plans are
17 not.
18

19 F. The Private Defendants object to this request because it is overly broad and
20 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the request
21 pertains to *non-party* actions without regard to the Private Defendants' relationship
22 thereto.
23

24 G. The Private Defendants object to this request because it is overly broad and
25 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the request pertains
26 "all documents and communications concerning or relating to" the activities at issue
27

1 regardless of the *nature* of the Private Defendants' relationship to the activity.

2 H. The Private Defendants object to this request because it made for an
3 improper purpose.

4 I. The Private Defendants object to this request because it is made to cause
5 annoyance, oppression, and to harass the Private Defendants.

6 J. The Private Defendants object to this request to the extent it seeks
7 personally identifiable information ("PII") on customers due to privacy concerns, which
8 may include, for example, laws that prohibit providing a customer's PII without a court
9 order or the customer's written consent.

10 K. The Private Defendants object to this request because the Plaintiff States
11 and Federal Defendants have conceded that the domestic deliveries of the Subject Files
12 by hand or mail are both not relevant to this action and legal.

13 Subject to the foregoing objections, the Private Defendants respond as follows:

14 After July 31, 2018, the Private Defendants did not post any Subject Files online
15 or otherwise make them publicly available via the internet, and did not assist or
16 facilitate any other person in posting any Subject Files online or otherwise making
17 them publicly available via the internet. Because no such events occurred, the
18 Private Defendants have no nonprivileged documents concerning or relating to
19 them.

20 **VII. Request for Production Number 7.**

21 Request for Production Number 7 provides as follows: "Produce all documents
22 concerning or relating to any criminal charges or convictions as referenced in
23

1 Interrogatory No. 7.” Responsive materials are being withheld on the basis of the
2 following objections.

3 A. The Private Defendants object to this request because it is not “relevant to
4 any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1). This action does not involve any
5 claim against the Private Defendants; it involves only Administrative Procedure Act
6 claims against the Federal Government that depend solely upon an administrative record.
7 *See* 5 U.S.C. § 706. The Court’s preliminary injunction does not address the Private
8 Defendants; it addresses only the Federal Defendants. Dkt. 95 at 25.

11 B. The Private Defendants object to this request because it is not proportional
12 to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1), (b)(2). This is so because the
13 interrogatory seeks information that is duplicative of what the administrative record
14 identifies and, to the extent that it is not duplicative, disproportionately unimportant in
15 comparison to what the administrative record identifies.

17 C. The Private Defendants object to this request because it is overly broad and
18 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory
19 pertains to “any and all crimes” without limitations regarding subject matter.

21 D. The Private Defendants object to this request because it is overly broad and
22 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory
23 pertains to “any person in active concert or participation with” Defense Distributed and
24 Cody Wilson without any limitations regarding subject matter, place, or time.

26 E. The Private Defendants object to this request because it is overly broad and
27 unduly burdensome. *See* Fed. R. Civ. P. 26(b)(2). This is so because the interrogatory

1 pertains to both charges and convictions; but even if convictions are relevant, charges are
2 not.

3 F. The Private Defendants object to this request because it made for an
4 improper purpose.

6 G. The Private Defendants object to this request because it is made to cause
7 annoyance, oppression, and to harass the Private Defendants.

8 DATED this 3rd day of December 2018.

9 BECK REDDEN LLP

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11 /s/Charles Flores

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CERTIFICATE OF SERVICE

I certify that on December 3, 2018, I served a copy of this document upon all counsel of record via United States First-Class Mail.

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Private Defendants' Supplemental Answers
to Plaintiffs' First Set of Interrogatories and
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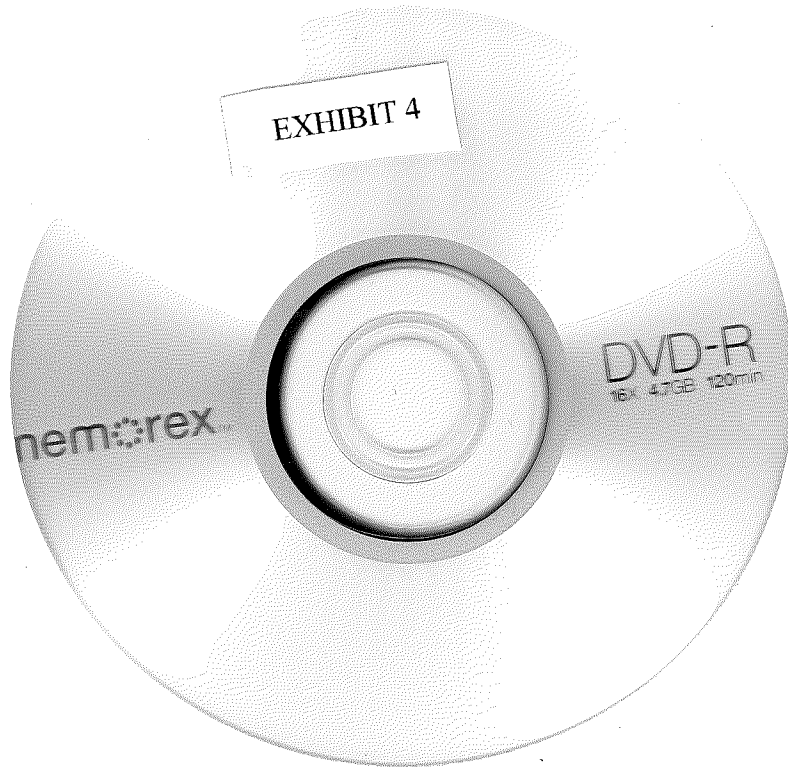
8
9 Attorneys for The Brady Center to Prevent
10 Gun Violence

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FARHANG & MEDCOFF

By /s/Matthew Goldstein
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*Admitted Pro Hac Vice

Attorneys for Defendants
Defense Distributed, Second Amendment
Foundation, Inc., and Conn Williamson

EXHIBIT 4



The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
STATE, et al.,

Defendants.

NO. 2:18-cv-01115-RSL

NOTICE OF FILING PAPER OR
PHYSICAL MATERIALS WITH
THE CLERK

A disk containing a copy of Exhibit 4 to the Declaration of Kristin Beneski in Support of the Plaintiff States' Motion to Compel Discovery Responses is being filed in physical form with the Clerk's Office for the Western District of Washington. The disk will remain in the Clerk's custody until appropriate disposition pursuant to the Local Rules of the Western District of Washington.

DATED this 4th day of December, 2018.

ROBERT W. FERGUSON
Attorney General

/s/ Jeffrey Rupert
JEFFREY RUPERT, WSBA #45037
Division Chief

NOTICE OF FILING PAPER OR
PHYSICAL MATERIALS WITH THE
CLERK -- NO. 2:18-CV-01115-RSL

KRISTIN BENESKI, WSBA #45478
Assistant Attorney General
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Deputy Attorney General
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Counsel for the Plaintiff States

EXHIBIT 5

From: [Rupert, Jeffrey \(ATG\)](#)
To: [Sprung, Jeff \(ATG\)](#); [Beneski, Kristin \(ATG\)](#); [Jones, Zach \(ATG\)](#); [Williams, Jennah \(ATG\)](#)
Subject: FW: Commonwealth v. Defense Distributed
Date: Monday, August 27, 2018 8:09:07 AM

From: Chad Flores <Cflores@beckredde.com>
Sent: Monday, August 27, 2018 7:28 AM
To: Goldman, Jonathan Scott <jgoldman@attorneygeneral.gov>
Cc: 'Miller, Jonathan (AGO)' <jonathan.miller@state.ma.us>; Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Romano, Karen M. <kromano@attorneygeneral.gov>; Bowers, Todd (ATG) <ToddB@ATG.WA.GOV>; Andrew Bruck <Andrew.Bruck@njoag.gov>; 'Jeremy Feigenbaum' <Jeremy.Feigenbaum@njoag.gov>; Donahue, III, James A. <jdonahue@attorneygeneral.gov>; DeLone, J. Bart. <jdalone@attorneygeneral.gov>; Kovatis, Stephen R. <skovatis@attorneygeneral.gov>; Sulcove, Lauren E. <lsulcove@attorneygeneral.gov>; 'Doug Gould' <dgould@pmrbm.com>
Subject: Re: Commonwealth v. Defense Distributed

Jonathan,

At your earliest convenience, please study the video again. It's been changed to omit the expressions that may have been your cause for concern. Naturally, the change does not entail any admission of wrongdoing. In light of the busy days ahead and unless you say otherwise, I'll assume that this moots the need to pursue a completely detailed discussion of this matter.

Chad Flores
Partner • Beck Redden LLP
cflores@beckredde.com
(713) 951-6268 office
(512) 589-7620 mobile

From: Chad Flores <Cflores@beckredde.com>
Date: Saturday, August 25, 2018 at 6:26 AM
To: "Goldman, Jonathan Scott" <jgoldman@attorneygeneral.gov>
Cc: "Miller, Jonathan (AGO)" <jonathan.miller@state.ma.us>, "Rupert, Jeffrey (ATG)" <JeffreyR2@ATG.WA.GOV>, "Romano, Karen M." <kromano@attorneygeneral.gov>, "Bowers, Todd (ATG)" <ToddB@ATG.WA.GOV>, Andrew Bruck <Andrew.Bruck@njoag.gov>, 'Jeremy Feigenbaum' <Jeremy.Feigenbaum@njoag.gov>, "Donahue, III, James A." <jdonahue@attorneygeneral.gov>, "DeLone, J. Bart." <jdalone@attorneygeneral.gov>, "Kovatis, Stephen R." <skovatis@attorneygeneral.gov>, "Sulcove, Lauren E." <lsulcove@attorneygeneral.gov>, Doug Gould <dgould@pmrbm.com>
Subject: Re: Commonwealth v. Defense Distributed

Jonathan,

I've received your e-mail and am studying the matter with all due haste. Rest assured that I'll

respond with a full report just as soon as I have one. If you could forward me the transcript you're citing, I'd appreciate that.

Chad Flores
Partner • Beck Redden LLP
cflores@beckredden.com
(713) 951-6268 office
(512) 589-7620 mobile

From: "Goldman, Jonathan Scott" <jgoldman@attorneygeneral.gov>
Date: Friday, August 24, 2018 at 4:35 PM
To: Doug Gould <dgould@pmrbm.com>, Chad Flores <Cflores@beckredden.com>
Cc: "Miller, Jonathan (AGO)" <jonathan.miller@state.ma.us>, "Rupert, Jeffrey (ATG)" <JeffreyR2@ATG.WA.GOV>, "Romano, Karen M." <kromano@attorneygeneral.gov>, "Bowers, Todd (ATG)" <ToddB@ATG.WA.GOV>, Andrew Bruck <Andrew.Bruck@njoag.gov>, 'Jeremy Feigenbaum' <Jeremy.Feigenbaum@njoag.gov>, "Donahue, III, James A." <jdonahue@attorneygeneral.gov>, "DeLone, J. Bart." <jdelone@attorneygeneral.gov>, "Kovatis, Stephen R." <skovatis@attorneygeneral.gov>, "Sulcove, Lauren E." <lsulcove@attorneygeneral.gov>
Subject: RE: Commonwealth v. Defense Distributed
Resent-From: Proofpoint Essentials <do-not-reply@proofpointessentials.com>
Resent-To: <cflores@beckredden.com>
Resent-Date: Friday, August 24, 2018 at 4:29 PM

Assume you saw that we filed the Joint Report, Chad and Doug. But I write about a more urgent issue.

We just became aware that Defense Distributed sent an email to its listserv this morning containing a link to a video (<https://youtu.be/5BqIXlkSoA>). In that video, Defense Distributed asks others to host its 3D gun files because courts have prevented it from doing so, itself. I assume, as counsel, you were and are unaware of this. Now you are. We respectfully request that you advise your clients to promptly take down the video and cease any and all efforts to have others host these files.

It is my understanding that, broadly speaking, your clients have made representations to the courts in which legal matters are pending that they would no longer make these files available (in PA and NJ) and that the nationwide injunction prevents them from making such files available anywhere nationwide. Actively soliciting others to host the same files plainly violates these promises and representations.

For example, in Pennsylvania, Defense Distributed represented to the Court that it "block[ed] all challenged information from being accessed in Pennsylvania." Doc 20, attached. During the hearing, counsel texted Mr. Wilson, who agreed to implement the agreed-to remedy that night:

THE COURT: And in the mean time, Mr. Blackman, your client is

going to keep this stuff, as you've described, off the internet, as far as Pennsylvania is concerned. Is that right?

MR. BLACKMAN: Yes. I actually texted my client while I was on the phone with you, Judge. He replied back, and we'll do it right away. So, as soon as they can do it, it's going to be done tonight.

Tr. 11: 11-22 (Doc. No. 17).

That conversation culminated, on the transcript, as follows:

THE COURT: ...And Mr. Blackman, your client agrees to continue to keep this stuff off the internet in Pennsylvania, and not post new stuff, until we have -- until we hold a motion -- until we hold a hearing for a preliminary injunction, and until I rule on it. Is that right?

MR. BLACKMAN: Yes, Your Honor, absolutely.

Tr. 17: 6-11 (Doc. No. 17).

Later, Doug, as counsel to Defendants, you represented to the PA Court that the Nationwide TRO Order in the WA Court "has the legal effect of a takedown order" in PA (and beyond). Doc 21 (attached).

In light of these representations, we hope you will agree that your clients' efforts to have others post the 3D guns that they promised were taken down and would no longer be made available in PA, NJ or nationally are improper and should cease immediately.

Kindly confirm as soon as possible that your clients will immediately take down the video from YouTube and cease any and all efforts to have others host these files.

Should you and/or your clients have any other position on this issue, please advise promptly.

Thanks and have a good weekend,

Jonathan

Jonathan Scott Goldman

Executive Deputy Attorney General

Civil Law Division

Pennsylvania Office of Attorney General

Strawberry Square, 15th Floor

Harrisburg, PA 17120

jgoldman@attorneygeneral.gov

Telephone: [717-787-8058](tel:717-787-8058)

Facsimile: [717-772-4526](tel:717-772-4526)

From: Goldman, Jonathan Scott

Sent: Friday, August 24, 2018 2:53 PM

To: 'Doug Gould' <dgould@pmrbm.com>; Chad Flores <Cflores@beckredde.com>

Cc: DeLone, J. Bart. <jdelone@attorneygeneral.gov>; Donahue, III, James A.

<jdonahue@attorneygeneral.gov>; Kovatis, Stephen R. <skovatis@attorneygeneral.gov>; Romano,

Karen M. <kromano@attorneygeneral.gov>; Sulcove, Lauren E. <lsulcove@attorneygeneral.gov>

Subject: RE: Commonwealth v. Defense Distributed

This works, Doug and Chad. We'll sign for you and file today.

Thanks and have a great weekend,

Jonathan

Jonathan Scott Goldman

Executive Deputy Attorney General

Civil Law Division

Pennsylvania Office of Attorney General

Strawberry Square, 15th Floor

Harrisburg, PA 17120

jgoldman@attorneygeneral.gov

Telephone: [717-787-8058](tel:717-787-8058)

Facsimile: [717-772-4526](tel:717-772-4526)

From: Doug Gould [<mailto:dgould@pmrbm.com>]

Sent: Friday, August 24, 2018 11:32 AM

To: Chad Flores <Cflores@beckredde.com>

Cc: Goldman, Jonathan Scott <jgoldman@attorneygeneral.gov>; DeLone, J. Bart.

<jdelone@attorneygeneral.gov>; Donahue, III, James A. <jdonahue@attorneygeneral.gov>; Kovatis,

Stephen R. <skovatis@attorneygeneral.gov>; Romano, Karen M. <kromano@attorneygeneral.gov>;

Sulcove, Lauren E. <lsulcove@attorneygeneral.gov>

Subject: Re: Commonwealth v. Defense Distributed

Jonathan-

Please find attached our draft joint report for filing today. It is vetted on this side, I authorize you to sign my signature for filing unless you have proposed changes.

On Aug 24, 2018, at 11:18 AM, Chad Flores <Cflores@beckredde.com> wrote:

Jonathan,

Thanks for the quick reply. I'll be the lead counsel in PA, and am aiming to make an appearance official in the next few days. But of course, please do continue to include both Doug and me in talks to ensure a smooth line of communication.

If the federal district court in Washington continues the TRO as a preliminary injunction, you're right to understand that Doug's August 2 letter represents our position about its effect. And of course, if that court does something materially different, we'll be at your disposal to clarify anything in need of attention.

We'll be glad to send over a proposed status report to file today. Perhaps since we'll be drawing it up, y'all can do the job of filing it.

Chad Flores
Partner • Beck Redden LLP
cflores@beckredde.com
(713) 951-6268 office
(512) 589-7620 mobile

From: "Goldman, Jonathan Scott" <jgoldman@attorneygeneral.gov>
Date: Friday, August 24, 2018 at 10:09 AM
To: Doug Gould <dgould@pmrbm.com>, Chad Flores <Cflores@beckredde.com>
Cc: "DeLone, J. Bart." <jdelone@attorneygeneral.gov>, "Donahue, III, James A." <jdonahue@attorneygeneral.gov>, "Goldman, Jonathan Scott" <jgoldman@attorneygeneral.gov>, "Kovatis, Stephen R." <skovatis@attorneygeneral.gov>, "Romano, Karen M." <kromano@attorneygeneral.gov>, "Sulcove, Lauren E." <lsulcove@attorneygeneral.gov>
Subject: RE: Commonwealth v. Defense Distributed
Resent-From: Proofpoint Essentials <do-not-reply@proofpointessentials.com>
Resent-To: <cflores@beckredde.com>
Resent-Date: Friday, August 24, 2018 at 10:01 AM

I was thinking about that this morning, Doug. The actual Order (attached) directed us to file a joint report "at the conclusion of the Western District of Washington's preliminary injunction hearing." That was Wednesday. Though we are waiting for the WA Court's expected Order on Monday, we should probably file a short status report in the interim. Would you be able to draft something?

Separately, I am out of the office on vacation next week and (unless truly necessary) will be unavailable. I am assuming that, if WA continues the TRO as a PI, your client will take the same position in this matter as you articulated before, that the WA Order "has the legal effect of a takedown order" in Pennsylvania and, presumably, nationally. See

attached. If that is not the case, please advise. Of course, if WA removes the TRO and denies the PI, we may have to plot a different course.

Last, in terms of lead counsel in the PA matter, will that be you, Chad? Are you planning to enter your appearance or will someone else be planning to do so? If no lead counsel has been identified, Doug, are you prepared to move forward before the PA Court on your own?

Thanks so much,

Jonathan

Jonathan Scott Goldman

Executive Deputy Attorney General
Civil Law Division
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Strawberry Square, 15th Floor
Harrisburg, PA 17120

jgoldman@attorneygeneral.gov

Telephone: [717-787-8058](tel:717-787-8058)

Facsimile: [717-772-4526](tel:717-772-4526)

From: Doug Gould [<mailto:dgould@pmrbm.com>]

Sent: Friday, August 24, 2018 10:43 AM

To: Goldman, Jonathan Scott <jgoldman@attorneygeneral.gov>; Chad Flores <Cflores@beckredden.com>

Subject: Commonwealth v. Defense Distributed

Dear Jonathan-

I am sure you have been tracking the Seattle PI hearing. It is my understanding the Seattle Court will be ruling on the PI next Monday. I wanted to have our ducks in a row for the joint report when the order arrives.

I will be traveling on Monday morning. Best bet will be to reach me on my cell (610) 209-3042 next week as I will not be in the office. I also have a protracted hearing on Wednesday morning in the event any telephone conferences need to be scheduled for that day. I would suspect being free after 2 p.m.

In the event of any issues while I am not available, I have copied Chad Flores on this email. Chad is Defense Distributed's lead counsel in Seattle. He can handle any issues in a pinch.

I have attached a draft of the joint report, please let me know if you think any changes are necessary.

Very truly yours,

Douglas T. Gould, Esq.

Bello, Reilley, McGrory & DiPippo, P.C.
144 E. DeKalb Pike, Ste. 300
King of Prussia, PA 19406
Phone (610) 992-1300
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----- ATTORNEYS AT LAW-----

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Very truly yours,

Douglas T. Gould, Esq.

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EXHIBIT 6

Twitter, Inc. [US] | <https://twitter.com/DefDist>

Home Moments

Search Twitter



Tweets 44 Followers 14.6K Likes 634 Lists 1

Defense Distributed

@DefDist

Wiki Weapon, Ghost Gunner, Goliad

Austin, TX

ghostgunner.net

Joined February 2012

Photos and videos



Tweets Tweets & replies Media

Pinned Tweet



Defense Distributed @DefDist · Aug 28

Files on sale now: DEFCAD.com

41 176 400

Defense Distributed Retweeted



Josh Blackman @JoshMBlackman · Sep 25

The @DefDist live-stream will begin at 11:00 at this link: youtube.com/watch?v=eD6xcG...

Defense Distributed @DefDist

Tomorrow's press conference will be held at the Sterling Event Center in Austin, TX at 11 a.m.

EXHIBIT 7

SUBSCRIBE

SIGN IN

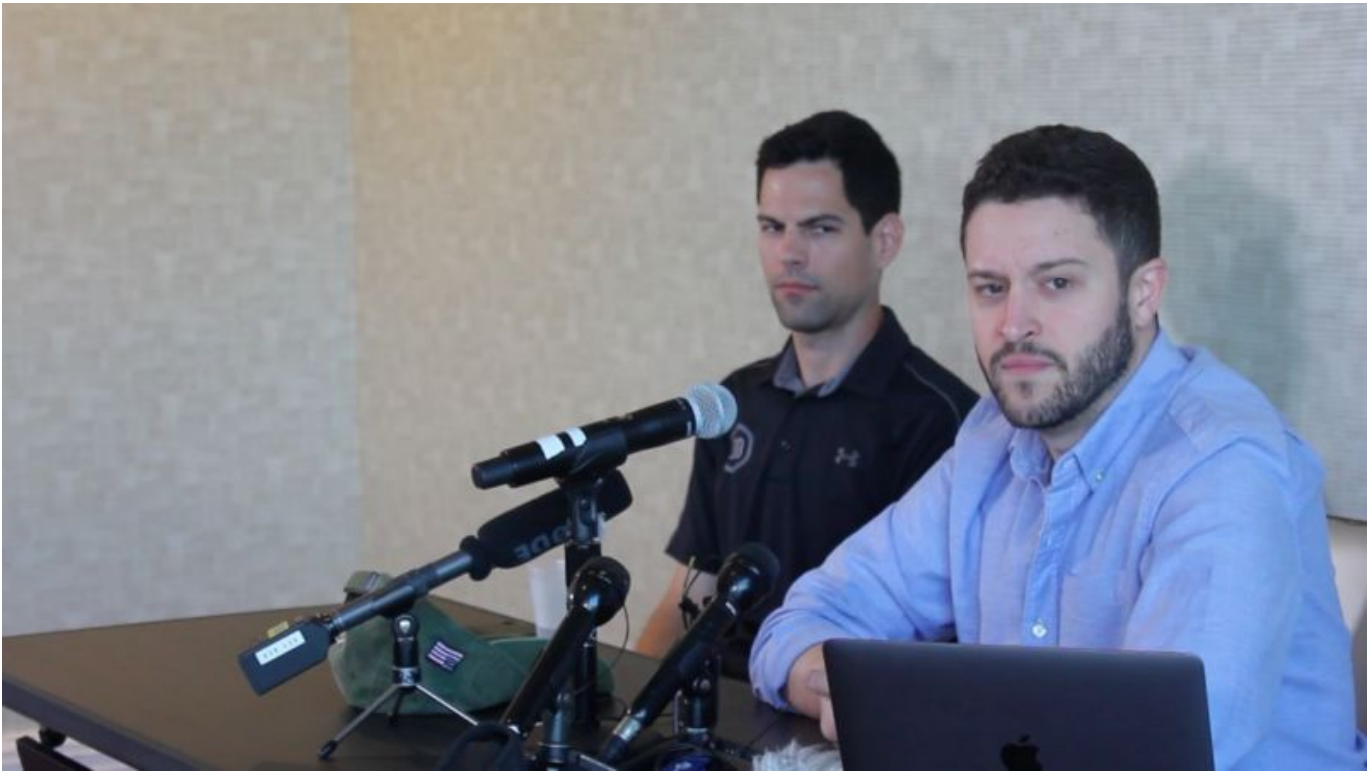
READY, AIM, FIRE —

After court order, 3D-printed gun pioneer now sells pay-what-you-want CAD files

Defense Distributed's Wilson: "I'm happy to become iTunes of 3D guns if I can't be Napster."

CYRUS FARIVAR AND NATHAN MATTISE - 8/28/2018, 9:18 AM

Nathan Mattise



spoke to reporters in Austin on August 28."/>

Enlarge / Cody Wilson (right), the founder of Defense Distributed, **spoke to reporters in Austin on August 28.**

AUSTIN, Texas—During what he called his first ever press conference, Defense Distributed founder Cody Wilson announced Tuesday that he would continue to comply with a federal court order forbidding him from internationally publishing **CAD files of firearms**. Wilson said he would also begin selling **copies** of his 3D-printed gun files for a "suggested price" of \$10 each.

FURTHER READING

Judge allows temporary ban on 3D-printed gun files to continue

The files, crucially, will be transmitted to customers "on a DD-branded flash drive" in the United States. Wilson also mentioned looking into customer email and secure download links.

Previously, Defense Distributed had given the files away for free, globally.

"I'm happy to become the iTunes of 3D guns if I can't be Napster," Wilson said, adding that anyone can submit a file to sell on his platform, where they will receive 50 percent of the sales proceeds. Wilson said files uploaded to the platform must "be liquid info," or things like CAD files, blueprints, and schematics. He reiterated users cannot resell materials they don't possess the rights to and that Defense Distributed has already put the infrastructure in place to review user submissions.

Throughout the event, Wilson would periodically check his phone in order to see recent Defense Distributed pay-what-you-want sales. "I've seen a guy pay \$15, lots of people paying \$1, others are \$10, \$8 for the AR-15 file," he told the assembled press. "It's very generous, just people who want to support us. See, \$0, a free-rider—give me a cent." He said the company has completed "a few hundred" pay-what-you-want transactions thus far.

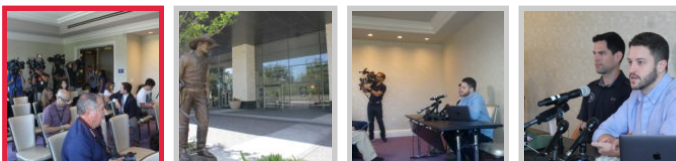
Wilson reiterated the move to sell is not motivated in any way by profit and that Defense Distributed remains financially stable. "We're not desperate for cash, we're just covering costs," he said. "I remember when Radiohead did this, they said they didn't make real money for this... I don't expect to either. There's plenty of people who don't want this, don't care, until they see the Attorney General of Pennsylvania doesn't want you to have it."

Throughout his initial statement and while fielding questions from the press, Wilson maintained his main motivation was First Amendment-related. He called out companies like Facebook and Amazon for previously censoring users from posting Defense Distributed file links (the former) or taking down books for sale (the latter) that contained code for the **Liberator**, the company's blueprinted handgun.

"Today I want to clarify, anyone who wants these files will get them—I'll sell them, I'll ship them," he continued. "The free exchange of these ideas will never be interrupted. I'm also inviting the public to share their own files and share the profit with me."

The event, which was only announced 24 hours earlier, was not very crowded. Outlets like the AP, *New York Times*, and EFF attendance.

Na



Starting pistol

As Ars has reported, Defense Distributed is a Texas-based company involved in a years-long lawsuit with the Department of State over publication of those files and making them available to foreigners. The company runs **DEFCAD**, perhaps the best-known online repository of gun files.

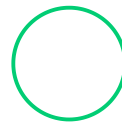
After a **surprising June 2018 settlement** with the Department of Justice appeared to end that five-year legal battle with the government, DEFCAD reposted the files on July 27, a few days earlier than the company had initially said it would restore them.

With the settlement, the federal government **essentially agreed** to modify the relevant export laws. Defense Distributed would be allowed to publish, the DOJ would pay \$40,000 of DD's legal fees, and the case would be over. The Second Amendment Foundation **announced** the settlement on July 10.

But earlier this month, a group of states led by Washington **sued the Department of State**, claiming that allowing the files to be made available violated a federal administrative law.

That settlement was then overturned in a ruling by a Seattle judge, US District Judge Robert Lasnik. On Monday, Judge Lasnik ordered that the files must stay offline in order to comply with American export law.

By selling them only to people in the United States, Wilson and Defense Distributed have found a way to still comply with the judge's order.



FURTHER READING

3D-printed (and CNC-milled) guns:
Nine questions you were too afraid
to ask

"That's the easiest thing for us to do, the legal thing for us to do, that's always been our mission as a company," he said. "You have a right to have these things; we have a right to give them."

A press representative for Washington Attorney General Bob Ferguson did not immediately respond to Ars' request for comment.

"Hysterical"

Wilson remained seated at a table for the duration of the press conference with an unnamed Defense Distributed employee by his side. He said in a matter-of-fact tone that he has been successfully fundraising off these recent efforts to shut him down. He has already raised \$200,000 (about half of which he said came via cryptocurrencies) and expects more to come. Defense Distributed's stated fundraising goal is \$400,000.

"The judges yesterday, besides being hysterical and all that, did not suspend [our operation] but wanted to unauthorize it," he said. "Many attorneys have been saying we've been stopped; no one can print a gun at home. This is the stuff I had to read yesterday. But of course you can download this stuff, all this press coverage ensured it'll be online forever. So the point I'm going to make: this order

stopping us from giving away [files], prevented us from selling, emailing, et cetera—I will be doing all those things. My congrats to the attorneys general for saving America. A lot of this to me is principle. For many years I chose not to sell these files, because I'm an open source activist. I believed in demonstrating there's a right to put this in the public domain."

When a reporter asked why the Seattle judge's order was "hysterical," Wilson noted that Judge Lasnik seemingly did not understand that the files are already out there.

"He accepts the plaintiff's article that the world would end if he didn't act," Wilson added. "But this already happened—we've lived in a world where you can download these files from anywhere. His description that 'some cybernaut can find these in the dark recesses in the Internet,'—they're discoverable within 30 seconds of Googling."

Wilson vowed to appeal the Seattle ruling at the 9th US Circuit Court of Appeals in San Francisco.

"You can read our briefs to see our arguments, and we're confined to those in the appeals court—pretty standard stuff regarding the First Amendment, Second Amendment," he said. "It's pretty easy stuff to understand if you're a federal judge, though maybe not."

UPDATE Wednesday 12:34am ET: In a series of encrypted text messages sent to Ars, Wilson confirmed that he was blocking Internet users who tried to pay him from some states "to humiliate them."

However, he reiterated that he was sending all files via USB stick, and had already put some in the mail: a total of \$20,000 in the first day of sales.

"I'll add other channels, as the judge permitted," he wrote.

In a statement sent Tuesday evening to Ars, Washington Attorney General said: "I trust the federal government will hold Cody Wilson, a self-described 'crypto-anarchist,' accountable to that law. If they don't, President Trump will be responsible for anyone who is hurt or killed as a result of these weapons."

His spokeswoman, Brionna Aho, declined to respond to Ars' further questions.



DEFCAD.com

[Enlarge](#)

READER COMMENTS 239

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EXHIBIT 8



Blocked from giving away 3D-printed gun blueprints, Texas man says he's selling them instead

Austin "crypto-anarchist" Cody Wilson says buyers can name their price for 3D-printed gun blueprints.

BY EMMA PLATOFF AND KATHRYN LUNDSTROM AUG. 28, 2018 2 PM



Cody Wilson, whose Defense Distributed is selling blueprints for 3D-printed guns, in his company's Austin headquarters. Bob Daemmrich for The Texas Tribune

An Austin resident and self-described “crypto-anarchist” said Tuesday he’ll begin selling blueprints that would allow users to 3D print their own plastic guns — a day after a federal judge extended a temporary block preventing him from making the plans available on the web for free.

In other words: If he can’t be the “Napster” of crypto-guns, he’ll be the “iTunes,” Wilson told reporters at a press conference Tuesday in Austin.

The decision could put Wilson, currently at the center of a slew of court disputes across the country, on shaky legal footing.

Cody Wilson is now selling 3D-printed gun blueprints online. The Texas Tribune

Wilson has argued in court that preventing him from publishing the blueprints infringes on his First Amendment rights. But Monday's injunction said the potential harms to Wilson's First Amendment rights "are dwarfed by the irreparable harms the States are likely to suffer" if he was permitted to post the blueprints for free. Nearly two dozen states that lined up against Wilson in court have said the untraceable plastic guns made using the blueprints would pose an enormous security risk.

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Wilson's right to disseminate the plans "is currently abridged, but it has not been abrogated," U.S. District Judge Robert Lasnik wrote in the Monday injunction.

Wilson called the injunction "hysterical," saying that the order allows his company to sell the designs and distribute them to customers through the mail, over email and with secure downloadable links. No judge can prevent the plans from spreading, he said.

About 30 minutes into the press conference, Wilson glanced down at his phone: "I've gotten 392 orders since this press conference began," he announced.

Josh Blackman, Wilson's lawyer, said in an interview Tuesday that selling the blueprints directly to people within the United States is perfectly legal.

"It's not about distribution, it's about posting them," Blackman said. "There's no prohibition on distributing these files — the prohibition is on doing it in a way that foreign persons can access."

Still, it's possible that the decision to sell the blueprints could spark a new legal challenge.

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Washington Attorney General Bob Ferguson, who is leading a 19-state challenge to Wilson, reiterated Tuesday that Wilson is not permitted to post plans online for free but did not comment on the plans to sell them.

"Because of our lawsuit, it is once again illegal to post downloadable gun files to the internet," Ferguson said. "I trust the federal government will hold Cody

Wilson, a self-described 'crypto-anarchist,' accountable to that law. If they don't, President Trump will be responsible for anyone who is hurt or killed as a result of these weapons.”

Wilson’s organization, Defense Distributed, is allowing customers to set their own price for any of 10 gun designs posted on his website. Wilson said he would even fulfill orders that name a price of \$0.

Wilson’s legal woes stretch back to 2013, when he posted blueprints for the 3D gun. The State Department ordered him to stop, arguing he was illegally exporting sensitive arms technology. Wilson sued in 2015, and Defense Distributed reached a settlement with the State Department earlier this summer, seemingly clearing the way for him to begin posting the designs online. But he was stalled by a flurry of lawsuits across the country.

At the press conference, Wilson refused to answer a question about the potential for foreign nationals to access the plans.

Despite the legal obstacles, Wilson was adamant that the plans for the guns will ultimately spread — nothing can stop that, he insisted.

“I didn’t get stopped yesterday, so who did?” Wilson said.

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EXHIBIT 9



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Complex Litigation Division
PO Box 40111 • Olympia, WA 98504-0111 • (360) 709-6470

November 2, 2018

Charles Flores
Beck Redden LLP
1221 McKinney St., Ste. 4500
Houston, TX 77010
VIA EMAIL cflores@beckredden.com

Joel Ard
Immix Law Group PC
701 5th Ave., Ste. 4710
Seattle, WA 98104
VIA EMAIL joel.ard@immixlaw.com

RE: ***State of Washington, et al. v. U.S. Department of State, et al.***
United States District Court Western District of Washington No. 2:18-cv-01115-RSL

Dear Counsel:

We write in regard to your responses, dated October 22, 2018, to Plaintiffs' First Set of Interrogatories and Requests for Production (collectively, the "Requests"). This set of nine interrogatories and seven requests for production is narrowly tailored, seeking information concerning the Private Defendants' compliance with the Court's July 31, 2018 temporary restraining order and August 27, 2018 preliminary injunction.

You have objected to each of the Requests in their entirety without providing, or indicating that you will provide, any substantive response. We address your primary objections below and request a response no later than Tuesday, November 6.

Withdrawal and limitations of certain Requests

We will withdraw Interrogatory No. 8, assuming it is correct that Cody Wilson is no longer affiliated with Defense Distributed. Further, we agree that Interrogatory No. 1 is "limited to Defense Distributed." We expect we will be able to agree to your request that Interrogatories 4, 5, and 9, and Request for Production No. 3, also be "limited to Defense Distributed" on the condition that we receive adequate assurance that the Second Amendment Foundation and Conn Williamson have not participated in any sale or distribution of the files in question and had no involvement with the YouTube video referenced in Interrogatory No. 9.

ATTORNEY GENERAL OF WASHINGTON

Charles Flores
Joel Ard
November 2, 2018
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Objections based on pending Rule 12(c) motion

In your “General Objections,” you assert that “[t]he Court should issue a Rule 12 judgment on the pleadings dismissing the Private Defendants from this action Hence, the Private Defendants submit that they should not be required to comply with any [Request] unless and until the Court resolves their Rule 12 motion.”

Please clarify whether you will provide substantive and complete responses to each of the Requests in the event that the Court denies your pending Rule 12(c) motion.

We agree that if the Court grants Rule 12(c) motion, the Private Defendants will not be subject to party discovery. However, in light of the upcoming November 15 deadline to file motions related to any discovery disputes, if we are unable to reach an agreement, we may need to take provisional steps to protect our clients’ interests before the Court rules on your Rule 12(c) motion.

Objections based on relevance

You object to each of the Requests on the grounds that, *inter alia*, they are “not relevant” because “[t]he Court’s preliminary injunction does not address the Private Defendants; it addresses only the Federal Defendants.”

We recognize that the TRO and preliminary injunction do not directly enjoin the Private Defendants. However, inasmuch as they are “parties” with “actual notice” of the injunction—and because Defense Distributed’s plan to distribute the files in question via the internet is central to the harm the injunction was intended to prevent—the information and documents we have requested from the Private Defendants are certainly relevant in this litigation.

An injunction binds “the parties,” their “officers, agents, servants, employees, and attorneys,” and “other persons who are in active concert or participation with” any of the above, as long as such persons “receive actual notice” of the injunction. Fed. R. Civ. P. 65(d)(2). Any party subject to an injunction must take “all reasonable steps within the party’s power to comply.” *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695 (9th Cir. 1993). “A party may also be held liable for knowingly aiding and abetting another to violate a court order. *See Regal Knitwear Co. v. NLRB*, 324 U.S. 9, 14 (1945) (“defendants may not nullify a decree by carrying out prohibited acts through aiders and abettors, although they were not parties to the original proceeding”).

Furthermore, “[e]very affirmative order in equity carries with it the implicit command to refrain from action designed to defeat it.” *NLRB v. Deena Artware, Inc.*, 361 U.S. 398, 413 (1960) (Franklin, J., concurring). “In deciding whether an injunction has been violated it is proper to observe the objects for which the relief was granted and to find a breach of the decree in a violation

ATTORNEY GENERAL OF WASHINGTON

Charles Flores
Joel Ard
November 2, 2018
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of the spirit of the injunction, even though its strict letter may not have been disregarded.” *John B. Stetson Co. v. Stephen L. Stetson Co.*, 128 F.2d 981, 983 (2d Cir. 1941). Here, the injunction was issued in large part based on evidence that “the States will likely suffer irreparable injury if the technical data for designing and producing undetectable weapons using a commercially-available 3D printer are published on the internet.” Any actions encouraging, inciting, causing, or failing to take all reasonable steps to prevent the publication of the files on the internet violate the purpose and spirit of the injunction.

Other objections

The majority of your other objections appear to be derivative of or closely related to the objections addressed above. To the extent that is the case, our responses are the same. We reserve the right to respond with particularity to your other objections.

Request for your response

Please respond by Tuesday, November 6, and let us know when you are available to meet and confer next week if necessary.

As noted above, we may need to take provisional steps to protect our clients’ interests before the Court rules on your Rule 12(c) motion if we are unable to come to an agreement. Alternatively, if you will stipulate to an extension of the deadline to file discovery-related motions, we are open to postponing our efforts to resolve any discovery disputes until the Court has ruled on your motion.

If you have any questions, please do not hesitate to contact us.

Sincerely,

/s/ Jeffrey G. Rupert
JEFFREY G. RUPERT
Assistant Attorney General
JeffreyR2@atg.wa.gov
(206) 389-2116

JGR/mm

cc: Jeffrey T. Sprung
Kristin Beneski
Zachary P. Jones
Steven A. Myers
Stuart J. Robinson

EXHIBIT 10

From: [Beneski, Kristin \(ATG\)](#)
To: "Chad Flores"
Cc: [Rupert, Jeffrey \(ATG\)](#); [Sprung, Jeff \(ATG\)](#); [Mills, Morgan \(ATG\)](#); [joel@ard.law](#); [Matt Goldstein](#)
Subject: RE: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL
Date: Thursday, November 29, 2018 3:33:41 PM

Okay, let's talk at 1:00 Central / 11:00 Pacific. We will circulate a calendar invite with a call-in number.

Kristin Beneski
Direct: 206.464.7459 | Cell: 206.595.3024 | Email: kristinb1@atg.wa.gov

From: Chad Flores <Cflores@beckredde.com>
Sent: Thursday, November 29, 2018 3:01 PM
To: Beneski, Kristin (ATG) <KristinB1@ATG.WA.GOV>
Cc: Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Sprung, Jeff (ATG) <Jeffs2@ATG.WA.GOV>; Mills, Morgan (ATG) <MorganM1@ATG.WA.GOV>; joel@ard.law; Matt Goldstein <mgoldstein@fmlaw.law>
Subject: RE: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

Kristin,

How about something between 1 p.m. and 3 p.m. central tomorrow? That works for our side.

Chad Flores
Partner · Beck Redden LLP
cflores@beckredde.com
(713) 951-6268

From: Beneski, Kristin (ATG) <KristinB1@ATG.WA.GOV>
Sent: Thursday, November 29, 2018 4:43 PM
To: Chad Flores <Cflores@beckredde.com>
Cc: Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Sprung, Jeff (ATG) <Jeffs2@ATG.WA.GOV>; Mills, Morgan (ATG) <MorganM1@ATG.WA.GOV>; joel@ard.law; Matt Goldstein <mgoldstein@fmlaw.law>
Subject: RE: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

Chad, Joel, Matt:

We have yet to hear back from you regarding a meet and confer. Please let us know whether you intend to participate, and if so, when you are available today or tomorrow. My schedule is filling up, but I will do my best to accommodate yours.

Kristin Beneski
Direct: 206.464.7459 | Cell: 206.595.3024 | Email: kristinb1@atg.wa.gov

From: Beneski, Kristin (ATG)
Sent: Tuesday, November 27, 2018 1:19 PM
To: 'Chad Flores' <Cflores@beckredde.com>

Cc: Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Sprung, Jeff (ATG) <JeffS2@ATG.WA.GOV>; Mills, Morgan (ATG) <MorganM1@ATG.WA.GOV>; joel@ard.law; Matt Goldstein <mgoldstein@fmlaw.law>

Subject: RE: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

Chad,

Thanks for your response. It is important that we be able to confer this week, in light of next Tuesday's deadline to file discovery-related motions. As of now, I am available all day tomorrow; after 2:00 Pacific on Thursday; and all day on Friday.

Kristin Beneski

Direct: 206.464.7459 | Cell: 206.595.3024 | Email: kristinb1@atg.wa.gov

From: Chad Flores <Cflores@beckredde.com>

Sent: Tuesday, November 27, 2018 12:48 PM

To: Beneski, Kristin (ATG) <KristinB1@ATG.WA.GOV>

Cc: Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Sprung, Jeff (ATG) <JeffS2@ATG.WA.GOV>; Mills, Morgan (ATG) <MorganM1@ATG.WA.GOV>; joel@ard.law; Matt Goldstein <mgoldstein@fmlaw.law>

Subject: Re: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

Kristin,

Thanks for getting back in touch. We are, indeed, playing catchup both due to the holidays and Joel's changeover. We'll be in touch soon with an idea for when to meet and confer.

Chad Flores

Partner • Beck Redden LLP

cflores@beckredde.com

(713) 951-6268

From: "Beneski, Kristin (ATG)" <KristinB1@ATG.WA.GOV>

Date: Tuesday, November 27, 2018 at 12:00 PM

To: Chad Flores <Cflores@beckredde.com>, Joel Ard <joel@ard.law>, Matt Goldstein <mgoldstein@fmlaw.law>

Cc: "Rupert, Jeffrey (ATG)" <JeffreyR2@ATG.WA.GOV>, "Sprung, Jeff (ATG)" <JeffS2@ATG.WA.GOV>, "Mills, Morgan (ATG)" <MorganM1@ATG.WA.GOV>

Subject: RE: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

I am resending the below to Joel's new email address, per the notice that was just filed.

Kristin Beneski

Direct: 206.464.7459 | Cell: 206.595.3024 | Email: kristinb1@atg.wa.gov

From: Beneski, Kristin (ATG)

Sent: Tuesday, November 27, 2018 8:59 AM

To: 'Chad Flores' <Cflores@beckredde.com>; 'joel.ard@immixlaw.com' <joel.ard@immixlaw.com>; 'Matt Goldstein' <mgoldstein@fmlaw.law>

Cc: Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Sprung, Jeff (ATG) <JeffS2@ATG.WA.GOV>; Mills, Morgan (ATG) <MorganM1@ATG.WA.GOV>

Subject: RE: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

Counsel,

Since we have not heard from you, we assume you will not be amending/supplementing your discovery responses. Please let us know when you are available to meet and confer this week.

Kristin Beneski

Direct: 206.464.7459 | Cell: 206.595.3024 | Email: kristinb1@atg.wa.gov

From: Beneski, Kristin (ATG)

Sent: Friday, November 16, 2018 10:42 AM

To: 'Chad Flores' <Cflores@beckredde.com>; 'joel.ard@immixlaw.com' <joel.ard@immixlaw.com>; 'Matt Goldstein' <mgoldstein@fmlaw.law>

Cc: Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Sprung, Jeff (ATG) <JeffS2@ATG.WA.GOV>; Cearley, Sara (ATG) <SaraC2@ATG.WA.GOV>; Mills, Morgan (ATG) <MorganM1@ATG.WA.GOV>

Subject: State of WA, et al v. US Dept. of State, et al, No. 2:18-CV-01115-RSL

Counsel,

If you intend to amend/supplement your discovery responses in light of the court's order on the 12(c) motion, we ask that you do so no later than Monday, November 26. Otherwise, please let us know when you are available to meet and confer during the next week or two.

Kristin Beneski

Assistant Attorney General

Complex Litigation Division | **Washington Attorney General's Office**

Direct: 206.464.7459 | Cell: 206.595.3024 | Email: kristinb1@atg.wa.gov

EXHIBIT 11

Beneski, Kristin (ATG)

Subject: RE: Supplemental Responses to Discovery Requests

From: Sprung, Jeff (ATG)
Sent: Monday, December 3, 2018 6:05 PM
To: Beneski, Kristin (ATG) <KristinB1@ATG.WA.GOV>
Subject: RE: Supplemental Responses to Discovery Requests

From: Matthew A. Goldstein <mgoldstein@fmlaw.law>
Sent: Monday, December 3, 2018 5:10 PM
To: Bowers, Todd (ATG) <ToddB@ATG.WA.GOV>; Jones, Zach (ATG) <ZachJ@ATG.WA.GOV>; Sprung, Jeff (ATG) <JeffS2@ATG.WA.GOV>; Rupert, Jeffrey (ATG) <JeffreyR2@ATG.WA.GOV>; Jacob.Campion@ag.state.mn.us; jgoldman@attorneygeneral.gov; matt.grove@coag.gov; scott.kaplan@doj.state.or.us; Robert.T.Nakatsuji@hawaii.gov; maura.murphyosborne@ct.gov; nelson.richards@doj.ca.gov; Jimmy.Rock@dc.gov; Andy.saindon@dc.gov; stowell@oag.state.va.us; surso@riag.ri.gov; kit@eff.org; venkat@focallaw.com; bterrell@terrellmarshal.com; deepak@guptawessler.com; jkimble@blankrome.com
Cc: Chad Flores <cflores@beckredder.com>; Joel Ard <joel@ard.law>; Deanna L. Thompson <dthompson@fmlaw.law>
Subject: Supplemental Responses to Discovery Requests

Attached please find the Private Defendants' Supplemental Responses to Plaintiffs' discovery requests.

-Matt

FARHANG & MEDCOFF
Attorneys

Matthew A. Goldstein
[Profile](#) | [vCard](#)

4801 East Broadway Boulevard | Suite 311 | Tucson, Arizona 85711
General: 520.790.5433 | Direct: 202.550.0040 | Fax: 520.790.5736

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EXHIBIT 12

Plaintiff States' Summary of Disputed Discovery Requests*State of Washington, et al. v. U.S. Dep't of State, et al.*

Request	Brief Description	Original Response (10/22/18)	Supplemental Response (12/3/18)	Additional Unique Issues	Citations to Motion
Rog 1	Individuals affiliated with Defense Distributed	Objections; no response	Original and new (waived) objections; response	Response appears incomplete	pp. 4, 12
Rog 3	Whether Private Defendants assisted or facilitated making files available via internet	Objections; no response	Original and new (waived) objections; responsive boilerplate	Boilerplate is in tension with "Host or Pay" video	pp. 4, 11
Rog 4	Persons to whom files were distributed	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11
Rog 5	Methods by which files were distributed	Objections; no response	Original and new (waived) objections; partly responsive boilerplate	Response lacks requested detail and may be incomplete	pp. 4, 10, 11, 12
Rog 6	Steps taken to determine citizenship and firearms eligibility of file recipients	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11
Rog 9	Participants in the "Host or Pay" video	Objections; no response	Original and new (waived) objections; no response		pp. 4, 11
RFP 1	Documents relating to any party or non-party's making files available via internet	Objections; no response	Original and new (waived) objections; responsive boilerplate	Boilerplate is in tension with "Host or Pay" video	pp. 4, 11–12
RFP 2	Documents relating to any party or non-party's distribution of files	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11
RFP 3	Information related to citizenship and firearms eligibility of file recipients	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11
RFP 4	Documents related to "Host or Pay" video and any similar publications	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11
RFP 5	Communications related to distribution or sale of files	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11
RFP 6	Any other documents relating to posting, distribution, or sale of files	Objections; no response	Original and new (waived) objections; non-responsive boilerplate		pp. 4, 10, 11